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COPY OF THE INDIAN PRESS ACT, 1910, AND PROCEEDINGS OF THE LEGISLATIVE COUNCIL OF THE GOVERNOR GENERAL OF INDIA RELATING THERETO.

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COPY OF THE INDIAN PRESS ACT, 1910, AND PROCEEDINGS OF THE LEGISLATIVE COUNCIL OF THE GOVERNOR GENERAL OF INDIA RELATING THERETO.

No. 1.

ACT No 1 OF 1910.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 9th February*, 1910.)

AN ACT to provide for the better control of the Press.

WHEREAS it is necessary to provide for the better control of the Press; It is hereby enacted as follows:—

Short title and extent.

1.—(1) This Act may be called the Indian Press Act, 1910.

(2) It extends to the whole of British India, inclusive of British Baluchistan, the Santhal Parganas and the Pargana of Spiti.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "book" includes every volume, part or division of a volume, and pamphlet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed:

(*b*) "document" includes also any painting, drawing or photograph or other visible representation:

(*c*) "High Court" means the highest Civil Court of Appeal for any local area except in the case of the provinces of Ajmer-Merwara and Coorg where it means the High Court of Judicature for the North-Western Provinces and the High Court of Judicature at Madras respectively:

(*d*) "Magistrate" means a District Magistrate or Chief Presidency Magistrate:

(*e*) "newspaper" means any periodical work containing public news or comments on public news: and

(*f*) "printing-press" includes all engines, machinery, types, lithographic stones, implements, utensils and other plant or materials used for the purpose of printing.

Deposit of security by keepers of printing-presses.

XXV of 1867.

3.—(1) Every person keeping a printing-press who is required to make a declaration under Section 4 of the Press and Registration of Books Act, 1867, shall, at the time of making the same, deposit with the Magistrate before whom the declaration is made security to such an amount, not being less than five hundred or more than two thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India:

Provided that the Magistrate may, if he thinks fit, for special reasons to be recorded by him, dispense with the deposit of any security or may from time to time cancel or vary any order under this subsection.

XXV of 1867.

(2) Whenever it appears to the Local Government that any printing-press kept in any place in the territories under its administration, in respect of which a declaration was made prior to the commencement of this Act under Section 4 of the Press and Registration of Books Act, 1867, is used for any of the purposes described in Section 4, subsection (1), the Local Government may, by notice in writing, require the keeper of such press to deposit with the Magistrate within whose jurisdiction the press is situated security to such an amount, not being less than five hundred or more than five thousand rupees, as the Local Government may think fit to require, in money or the equivalent thereof in securities of the Government of India.

Power to declare security forfeited in certain cases.

4.—(1) Whenever it appears to the Local Government that any printing-press in respect of which any security has been deposited as required by Section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which are likely

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or may have a tendency, directly or indirectly, whether by inference, suggestion, allusion, metaphor, implication or otherwise—

VI of 1908.

(*a*) to incite to murder or to any offence under the Explosive Substances Act, 1908, or to any act of violence, or

(*b*) to seduce any officer, soldier or sailor in the Army or Navy of His Majesty from his allegiance or his duty, or

(*c*) to bring into hatred or contempt His Majesty or the Government established by law in British India or the administration of justice in British India, or any Native Prince or Chief under the suzerainty of His Majesty, or any class or section of His Majesty's subjects in British India, or to excite disaffection towards His Majesty or the said Government or any such Prince or Chief, or

(*d*) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security, or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or

(*e*) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or

(*f*) to convey any threat of injury to a public servant, or to any person in whom that public servant is believed to be interested, with a view to inducing that public servant to do any act or to forbear or delay to do any act connected with the exercise of his public functions,

the Local Government may, by notice in writing to the keeper of such printing-press, stating or describing the words, signs or visible representations which in its opinion are of the nature described above, declare the security deposited in respect of such press and all copies of such newspaper, book or other document wherever found to be forfeited to His Majesty.

Explanation I.—In clause (*c*) the expression "disaffection" includes disloyalty and all feelings of enmity.

Explanation II.—Comments expressing disapproval of the measures of the Government or of any such Native Prince or Chief as aforesaid with a view to obtain their alteration by lawful means, or of the administrative or other action of the Government or of any such Native Prince or Chief or of the administration of justice in British India without exciting or attempting to excite hatred, contempt or disaffection do not come within the scope of clause (*c*).

(2) After the expiry of ten days from the date of the issue of a notice under subsection (1), the declaration made in respect of such press under Section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

XXV of 1867.

Deposit of further security.

5. Where the security given in respect of any press has been declared forfeited under Section 4, every person making a fresh declaration in respect of such press under Section 4 of the Press and Registration of Books Act, 1867, shall deposit with the Magistrate before whom such declaration is made security to such amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India.

XXV of 1867.

Power to declare further security, printing-press and publications forfeited.

6. If after such further security has been deposited the printing-press is again used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which in the opinion of the Local Government are of the nature described in Section 4, sub-section (1), the Local Government may, by notice in writing to the keeper of such printing-press, stating or describing such words, signs or visible representations, declare—

(*a*) the further security so deposited,

(*b*) the printing-press used for the purpose of printing or publishing such newspaper, book or other document or found in or upon the premises where such newspaper, book or other document is, or at the time of printing the matter complained of was, printed, and

(*c*) all copies of such newspaper, book or other document wherever found,

to be forfeited to His Majesty.

Issue of search-warrant.

7.—(1) Where any printing-press is or any copies of any newspaper, book or other document are declared forfeited to His Majesty under this Act, the Local Government may direct any Magistrate to issue a warrant empowering any police-

officer, not below the rank of a Sub-Inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises—

(i) where any such property may be or may be reasonably suspected to be, or

(ii) where any copy of such newspaper, book or other document is kept for sale, distribution, publication, or public exhibition or reasonably suspected to be so kept.

(2) Every warrant issued under this section shall, so far as relates to a search, be executed in manner provided for the execution of search-warrants under the Code of Criminal Procedure, 1898. V of 1898.

Deposit of security by publisher of newspaper.

8.—(1) Every publisher of a newspaper who is required to make a declaration under Section 5 of the Press and Registration of Books Act, 1867, shall, at the time of making the same, deposit with the Magistrate before whom the declaration is made security to such an amount, not being less than five hundred or more than two thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the Government of India: XXV of 1867.

Provided that if the person registered under the said Act as printer of the newspaper is also registered as the keeper of the press where the newspaper is printed, the publisher shall not be required to deposit security so long as such registration is in force:

Provided further that the Magistrate may, if he thinks fit, for special reasons to be recorded by him, dispense with the deposit of any security or may from time to time cancel or vary any order under this subsection.

(2) Whenever it appears to the Local Government that a newspaper published within its territories, in respect of which a declaration was made by the publisher thereof prior to the commencement of this Act, under Section 5 of the Press and Registration of Books Act, 1867, contains any words, signs or visible representations of the nature described in Section 4, subsection (1), the Local Government may, by notice in writing, require the publisher to deposit with the Magistrate, within whose jurisdiction the newspaper is published, security to such an amount, not being less than five hundred or more than five thousand rupees, as the Local Government may think fit to require, in money or the equivalent thereof in securities of the Government of India. XXV of 1867.

Power to declare security forfeited in certain cases.

9.—(1) If any newspaper in respect of which any security has been deposited as required by Section 8 contains any words, signs or visible representations which in the opinion of the Local Government are of the nature described in Section 4, subsection (1), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, declare such security and all copies of such newspaper, wherever found, to be forfeited to His Majesty.

(2) After the expiry of ten days from the date of the issue of a notice under subsection (1), the declaration made by the publisher of such newspaper under Section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled. XXV of 1867.

Deposit of further security.

10. Where the security given in respect of any newspaper is declared forfeited, any person making a fresh declaration under Section 5 of the Press and Registration of Books Act, 1867, as publisher of such newspaper, or any other newspaper which is the same in substance as the said newspaper, shall deposit with the Magistrate before whom the declaration is made security to such amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India.

Power to declare further security and newspapers forfeited.

11. If after such further security has been deposited the newspaper again contains any words, signs or visible representations which in the opinion of the Local Government are of the nature described in Section 4, subsection (1), the Local Government may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, declare—

(*a*) the further security so deposited, and

(*b*) all copies of such newspaper wherever found, to be forfeited to His Majesty.

Power to declare certain publications forfeited and to issue search-warrants for same.

12.—(1) Where any newspaper, book or other document wherever printed appears to the Local Government to contain any words, signs or visible representations of the nature described in Section 4, subsection (1), the Local Government may, by notification in the local official Gazette, stating the grounds of its opinion, declare such newspaper, book or other document to be forfeited to His Majesty, and thereupon any police-officer may seize the same wherever found, and any Magistrate may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where the newspaper, book or other document may be or may be reasonably suspected to be.

(2) Every warrant issued under this section shall, so far as relates to a search, be executed in manner provided for the execution of search-warrants under the Code of Criminal Procedure, 1898.

V of 1898.

Power to detain packages containing certain publications when imported into British India.

13. The Chief Customs Officer or other officer authorized by the Local Government in this behalf may detain any package brought, whether by land or sea, into British India which he suspects to contain any newspapers, books or other documents of the nature described in Section 4, subsection (1), and shall forthwith forward copies of any newspapers, books or other documents found therein to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government may direct.

Prohibition of transmission by post of certain newspapers.

XXV of 1867.

14. No newspaper printed and published in British India shall be transmitted by post unless the printer and publisher have made a declaration under Section 5 of the Press and Registration of Books Act, 1867, and the publisher has deposited security when so required under this Act.

Power to detain articles being transmitted by post.

15. Any officer in charge of a post-office or authorised by the Postmaster-General in this behalf may detain any article other than a letter or parcel in course of transmission by post, which he suspects to contain—

(*a*) any newspaper, book or other document containing words, signs or visible representations of the nature described in Section 4, subsection (1), or

(*b*) any newspaper in respect of which the declaration required by Section 5 of the Press and Registration of Books Act, 1867, has not been made, or the security required by this Act has not been deposited by the publisher thereof,

and shall deliver all such articles to such officer as the Local Government may appoint in this behalf to be disposed of in such manner as the Local Government may direct.

Copies of newspapers printed in British India to be delivered gratis to Government.

16.—(1) The printer of every newspaper in British India shall deliver at such place and to such officer as the Local Government may, by notification in the local official Gazette, direct, and free of expense to the Government, two copies of each issue of such newspaper as soon as it is published.

(2) If any printer of any such newspaper neglects to deliver copies of the same in compliance with subsection (1), he shall, on the complaint of the officer to whom the copies should have been delivered or of any person authorised by that officer in this behalf, be punishable on conviction by a Magistrate having jurisdiction in the place where the newspaper was printed with fine which may extend to fifty rupees for every default.

Application to High Court to set aside order of forfeiture.

17. Any person having an interest in any property in respect of which an order of forfeiture has been made under Section 4, 6, 9, 11 or 12 may, within two months from the date of such order, apply to the High Court to set aside such order on the ground that the newspaper, book or other document in respect of which the order was made did not contain any words, signs or visible representations of the nature described in Section 4, subsection (1).

Hearing by Special Bench.

18. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges, or, where the High Court consists of less than three Judges, of all the Judges.

Order of Special Bench setting aside forfeiture.

19.—(1) If it appears to the Special Bench that the words, signs or visible representations contained in the newspaper, book or other document in respect of which the order in question was made were not of the nature described in Section 4, subsection (1), the Special Bench shall set aside the order of forfeiture.

(2) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority (if any) of those Judges.

(3) Where there is no such majority which concurs in setting aside the order in question, such order shall stand.

Evidence to prove nature or tendency of newspapers.

20. On the hearing of any such application with reference to any newspaper, any copy of such newspaper published after the commencement of this Act may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper which are alleged to be of the nature described in Section 4, subsection (1).

Procedure in High Court.

21. Every High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed the practice of such Court in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

Jurisdiction barred.

22. Every declaration of forfeiture purporting to be made under this Act shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place, and no proceeding purporting to be taken under this Act shall be called in question by any Court, except the High Court on such application as aforesaid, and no civil or criminal proceeding, except as provided by this Act, shall be instituted against any person for anything done or in good faith intended to be done under this Act.

Penalty for keeping press or publishing newspaper without making deposit. XXV of 1867.

23.—(1) Whoever keeps in his possession a press for the printing of books or papers without making a deposit under Section 3 or Section 5, when required so to do, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by Section 4 of the Press and Registration of Books Act, 1867.

(2) Whoever publishes any newspaper without making a deposit under Section 8 or Section 10, when required so to do, or publishes such newspaper, knowing that such security has not been deposited, shall, on conviction by a Magistrate, be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by Section 5 of the Press and Registration of Books Act, 1867.

Return of deposited security in certain cases.

24. Where any person has deposited any security under this Act and ceases to keep the press in respect of which such security was deposited, or, being a publisher, makes a declaration under Section 8 of the Press and Registration of Books Act, 1867, he may apply to the Magistrate within whose jurisdiction such press is situate for the return of the said security; and thereupon such security shall, upon proof to the satisfaction of the Magistrate and subject to the provisions hereinbefore contained, be returned to such person.

Service of notices. V of 1898.

25. Every notice under this Act shall be sent to a Magistrate, who shall cause it to be served in the manner provided for the service of summonses under the Code of Criminal Procedure, 1898.

Operation of other laws not barred.

26. Nothing herein contained shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act.

No. 2.

Extract from the proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 *to* 1909 (24 & 25 *Vict., c.* 67 55, & 56 *Vict., c.* 14, *and* 9 *Edw. VII., c.* 4).

The Council met at Government House on Friday, the 4th February, 1910.

* * * * * * *

PRESS BILL.

The Hon'ble Sir Herbert Risley said :—" My Lord, I have the honour to move for leave to introduce a Bill to provide for the better control of the Indian Press, or in other words to confine the Press—the whole of the Press, European or Indian, English or vernacular—within the limits of legitimate discussion. The subject is a large one, and I have considered carefully how it should be presented to this Council, so that the essential issues may be clearly brought out and may not be

obscured by history that has ceased to be relevant and principles which no longer apply. In the first place let me state as simply as possible what the Bill proposes to do.

"It will be convenient if I first describe the kind of matter which may not be published. This is set out in Clause 4 of the Bill under six separate heads.

"The first of these relates to incitements to murder or to any offence under the Explosive Substances Act or to any actual violence. Incitements of this nature are already covered by the Newspapers (Incitements to Offences) Act, 1908, but we think it advisable to include them in this Bill in order that we may, if necessary, take action of a less severe kind than that prescribed by the Act of 1908.

"The next kind of writing which is forbidden is that which is likely to seduce any officer, soldier or sailor, from his allegiance or his duty. That calls for no comment: it is obvious that such writings must be dangerous to the public welfare.

"Then under head (*c*) we come to writings which are likely to bring into hatred or contempt His Majesty, or the Government, or any lawful authority, or any Native Prince or Chief under the suzerainty of His Majesty, or which are likely to excite disaffection against His Majesty, or the Government, or such Princes or Chiefs, or to excite antipathy between members of different races, castes, classes, religions, or sects. The greater part of this head is covered by the terms of Sections 124A and 153A of the Indian Penal Code; but we have made two additions of some importance. In the first place, we have included what I may describe as the preaching of sedition against the Princes or Chiefs of our native States. We have had not a few instances of newspapers published in British India containing seditious matter of that kind. The Government of India cannot tolerate this; they cannot allow their territories to be used as a safe asylum from which attacks can be launched upon Indian Princes. The other direction in which this heading goes beyond the terms of the two sections I have quoted is that it includes the bringing of any lawful authority into hatred or contempt. There have been many venomous attacks upon Magistrates and Judges, even upon Judges of the High Courts, and this must be prevented.

"The fourth heading relates to intimidation and blackmailing. It will cover the case of the blackmailing of Indian Princes against which the corresponding clause of Lord Lytton's Act of 1878 was directed.

"The fifth heading prohibits matter which is likely to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order. Under the Indian Criminal Law Amendment Act, 1908, the Government have power to declare that an association which has these objects is an unlawful association, and a newspaper should not be allowed to do what an association may not do.

"The last sub-clause deals with the intimidation of public servants, and is taken *verbatim* from the Act of 1878. The protection which this sub-clause will give is certainly more necessary now than it was thirty years ago.

"I will now show how we propose to prevent the publication of matter of the kind I have described. Hon'ble Members are no doubt aware that under the Press and Registration of Books Act of 1867 every person who wishes to keep a press for the printing of books or papers must make a declaration to that effect before a Magistrate. Another provision of that Act requires that every printer and publisher of a newspaper must make a similar declaration. These declarations are registered and are available for the information of anyone who wishes to take proceedings against the press or the newspaper. Clause 3 of our Bill provides that every person who makes a declaration hereafter as the keeper of a press must deposit security for an amount to be fixed in each case by the Magistrate, but not being less than Rs. 500 or more than Rs. 5,000. Clause 8 contains a similar provision in respect of the publisher of a newspaper. The printer of a newspaper is not required to deposit security, as his case is already covered by the provision requiring security from the person who keeps the press. These provisions, as I have said, apply only to future registrations. In the case of existing presses and existing newspapers no security can be demanded until the press or paper offends by printing or publishing matter of the prohibited kind. But when a press or newspaper has printed or published such matter, the Local Government may at once call upon the person registered as the keeper of the press or the publisher of the newspaper to deposit security to an amount to be fixed by the Local Government subject to the same limits as are prescribed for fresh registrations.

"The next stage in the procedure provided by the Bill is that the Local Government can order the forfeiture of the security deposited if it appears that

the press has printed or the newspaper has published any matter of the prohibited kind. If the keeper of the press or the publisher of the newspaper wishes to continue his business after such an order has been passed, he is at liberty to do so, but he must make a fresh declaration under the Press and Registration of Books Act, and the Magistrate may then demand enhanced security up to a maximum of Rs. 10,000. Should the keeper of a press or the publisher of a newspaper again publish prohibited matter after enhanced security has been taken, the Local Government may order the forfeiture of the enhanced security in the case of the newspaper, and of both security and press in the case of the printing-press. I wish to make it quite clear to Hon'ble Members that no keeper of a press who is registered at the time of the passing of this Bill will be affected by its provisions unless and until he offends by printing prohibited matter; but if he does that, he may be called upon to deposit security. If he again offends, his security may be forfeited, while for a third offence both security and press may be forfeited. For persons who are now registered as publishers of newspapers the procedure is the same. That is to say, no interference at all until one offence is committed; then a demand for security which may be forfeited for the second offence; next the taking of enhanced security; and the forfeiture of this enhanced security for the third offence. In the case of new registrations security is demanded from the beginning. This is necessary to provide against an evasion of the law by new registrations which are new only in name.

"It will be readily admitted that if we take security at all we must take it from the keepers of printing-presses; for the law, to be effective, must cover not only newspapers, but also books, pamphlets, leaflets, and every other kind of document by which seditious matter can be disseminated. But it may be asked, why take security from the publisher of a newspaper in addition to taking it from the keepers of presses? The answer is that we cannot always be certain of getting at the newspaper through its press, for difficulties have arisen in ascertaining at what press a newspaper is printed. Many of the small newspapers, which are notorious offenders, have no presses of their own, but are printed at a job press which may be changed from month to month, and it is by no means easy to learn with certainty at which particular press an offending issue of the newspaper was published. Moreover, if security were not demanded from the publisher of a newspaper, he might continue to offend with no greater penalty that the demanding of security from each of the different presses at which successive issues of his journal were printed.

"We have fixed a minimum as well as a maximum for the security to be demanded in order to give an indication which will guide officers in all ordinary cases. But to meet the exceptional cases of the petty press which publishes only trade circulars, bill headings, and the like, and the case of the school or college magazine and other similar publications which are not newspapers in the ordinary sense of the term, though they cannot be excluded from the definition—in order to meet these cases we have given the Magistrate power to take reduced security or to dispense with security altogether.

"The provisions which I have described so far relate to the cases of newspapers and of matter which is printed at presses that are known. But we have also to deal with books and pamphlets, especially the latter, which are printed out of India or secretly in India. To meet these cases power is taken for the Local Government to declare by notification that such publications are forfeited and to issue search-warrants for their discovery. In aid of this provision power is also given to Customs officials to detain suspected packages pending examination of their contents by the Local Government, and to Post Office officials to open and detain with a like object any suspected packet which has been transmitted by post. We have also prohibited the transmission by post of any newspaper in respect of which the necessary declaration and deposit of security, when required, have not been made.

"Finally we have laid an obligation upon the printer of a newspaper to deliver to Government at the time of publication two copies of every issue. This has been rendered necessary by the failure of certain newspaper proprietors to send punctually the copies for which the Government subscribe, while in one case a subscription equal to ten times the ordinary subscription was demanded from the Government.

"So far I have dealt only with the powers which are given by the Act. I will now turn to the check which we have provided. This consists of an appeal to a special tribunal of three Judges of the High Court against any order of forfeiture passed by the Government. If it appears to the High Court that the matter in

respect of which the order was passed does not come within the terms of Section 4 of this Bill, then the High Court will set aside the order of forfeiture. I think it will be admitted that that is a very complete check upon any hasty or improper action by a Local Government. We have, therefore, barred all other legal remedies.

"There are two other clauses that I must mention. One provides that the penalty for keeping a press or publishing a newspaper without making the deposit of security shall be the same as that imposed upon a person who keeps a press or publishes a newspaper without making the declaration required by the Press and Registration of Books Act. The other is a provision which saves the operation of other laws.

"I have explained the scope of the Bill, what it proposes to do. I will now mention its limitations, what it does not propose to do. In the first place, it does not creat a Censorship. It imposes no antecedent restraint on the Press: a man may publish what he pleases; he has the widest range for every form of intellectual activity within the limits laid down by the law. Secondly, it is not like the Press Act of 1878, a purely executive measure. The initiative, indeed, rests with the Executive Government, but ample security against hasty or arbitrary action is provided in the form of what is virtually an appeal to a highly competent judicial authority. Thirdly, it is not a measure of universal licensing with power to the Government to withdraw or refuse a license at discretion. The liberty of unlicensed printing, for which Milton pleaded three centuries and a half ago, and at the time pleaded in vain, is untouched by this Bill. Security is demanded only from papers established after the passing of the Act. That is necessary to guard against the Protean changes of identity of which we have had illustrations in Bengal. But security is one thing and a system of licensing is another. Security may rightly be required in the interests of the community in order to guarantee that those who undertake for the first time the important task of instructing the people regarding public affairs shall at any rate be fully aware of the responsibility they incur.

"I do not set much store by precedents and parallels drawn from foreign sources. As Lord Morley has pointed out, no political principle whatever is capable of application in every sort of circumstances without reference to conditions in every place and at every time. Each country has its own problems and must solve them in its own way. India has hers, of which this is one of the gravest. We, too, must travel on our own road with such guidance as our necessities give us; we cannot walk by borrowed light. But if there is any European country upon whose experience we might draw upon and whose example we might follow, it would be Austria, where there exists much the same kind of medley of nationalities, classes, languages, and religions as we find in India, and where (as Bismarck pointed out long ago) a certain section of the Press has exercised an influence of evil tendency. Yet what a contrast there is between this Bill and the regular practice in Austria. In that country not only can the business of printing not be carried out without a licence, but every number of a periodical must be submitted to the police before publication, so that it may be confiscated if it contains anything contrary to the law. All periodicals, whether they have offended or not, must deposit money, on pain of suppression, as a guarantee for the payment of fines. The police frequently order a newspaper to leave out of its columns an article which they deem offensive and give notice to the daily Press that some particular subject had better not be touched upon for the present. Finally, whatever constitutional rights newspapers may possess may be suspended at a moment's notice by the Ministry declaring a state of siege. This is the practice in a country where the Press is subject to the wholesome check of public opinion. Each political party has its organs, and the Government have theirs. Statements made by one side are promptly rebutted by the other, and no editor can be wholly irresponsible. In India none of these restraints exist to any extent worth mentioning. Yet the Bill does not propose to confer any powers on the police. They will be absolutely outside it and will have nothing whatever to do with its administration.

"I have explained, my Lord, what our proposals are and also what they are not. It is my present duty to justify them, and for this purpose I must review as concisely as possible the history of the subject and must answer the question, why is any special law necessary; why cannot the Government be content to rely upon the ordinary criminal law? To do this I must go back to the beginnings of the present evils. The Press in India has been free (except during two periods) for the last 75 years, in fact ever since Sir Charles Metcalfe repealed the Licensing Act which was in force up to 1835. The two periods which I have referred to were, first

the period of the Mutiny, when the entire Press was under absolute control for one year and no more; and the second was from 1878 to 1881, when a portion of the Press was subject to the virtually nominal control imposed by the Vernacular Press Act of 1878. I will not touch upon the earlier years, but I will begin about the middle of the period which I have marked off, and I will endeavour to show what use the Press has made in comparatively recent times of Lord Metcalfe's famous concession. Thirty-three years ago I was present, as Under-Secretary to the Government of Bengal, at a notable Durbar held by Sir Ashley Eden at Belvedere on the 12th August, 1877. In addressing that Durbar the Lieutenant-Governor denounced in strong terms the disloyalty and sedition which were frequently published in the Native Press of Bengal. Even then rank treason was preached and a war of independence was talked of, and Sir Ashley Eden thought it necessary to warn those whom he addressed that the character of the Vernacular Press was creating an unfavourable impression in many quarters of the loyalty of the Bengalis. The warning was not heeded, and in the following year the tone and tendencies of the Press led to the passing of the Act of 1878, the object of which, like the object of the present Bill, was to prevent, not to punish, sedition. As everyone knows, the Act was in force for only three years, during which time recourse was only once had to its provisions. It defects, from our present point of view, are palpable. It applied only to the Vernacular Press and left untouched journals published in English, whether owned by Indians or by Europeans; its machinery was purely executive, judicial intervention being expressly excluded, and it contained an impracticable provision for censorship which was soon repealed. The whole Act was repealed in 1881, and from that time till now the Press has been left to the operation of the ordinary law. Up to the year 1907 the policy of the Government was one of extreme forbearance, and prosecutions were of rare occurrence. Indeed, during the 37 years from 1870 to 1907 the law was put in motion only sixteen times. Among these cases there is not a single case of acquittal. On two occasions the jury disagreed, but the offenders would have been tried again if Government had not thought fit to accept their apologies. I have described our forbearance as extreme; many people may think it excessive. But the ingrained instincts of all Englishmen are averse to interference with the Press, even by way of prosecution, and we continued to hope that time and education would bring wisdom. Our hope was vain, the Press did not mend its ways; it went continually from bad to worse, and at length it produced its inevitable results in the cruel and oppressive methods of the boycott. It was clear, moreover, that matters were not going to stop there, and that worse things were in store for us. As everyone knows, we had not long to wait. Accordingly on the 3rd June, 1907, after careful and anxious consideration, the Government of India issued the following resolution :—

> " ' Certain circumstances attending the recent outbreaks of lawlessness in the Punjab and Eastern Bengal have forced upon the attention of the Government of India the deliberate efforts made by a number of newspapers, both English and Vernacular, to inflame the minds of the people, to encourage ill-will between classes, to promote active hostility to the Government, and to disturb the public tranquillity in many different ways. The Governor-General has no desire whatever to restrict the legitimate liberty of the Press to criticise the action of the Government, and he would be most reluctant to curtail the freedom of the many well-conducted papers because of the misbehaviour of a few disloyal journals. But he is responsible for the maintenance of law and order among a vast and heterogeneous population, and he is unable to tolerate the publication of writings which tend to arouse the disorderly elements of society and to incite them to concerted action against the Government. On these grounds he has determined that the dissemination of sedition and the promotion of ill-will between classes must be repressed by firm and sustained action under the penal law. Accordingly, in supersession of previous orders on the subject, His Excellency in Council empowers Local Governments to institute prosecutions in consultation with their legal advisers in all cases where the law has been wilfully infringed. He hopes that the warning now given may, in great measure, avert the necessity for numerous prosecutions, but if this hope should unhappily not be realised, he relies upon the local authorities to deal with the evil effectively.'

" Up to the end of last year 47 prosecutions had been undertaken under these orders. Not one of these cases has failed, although in some instances the editor,

manager, or proprietor has escaped, and only the registered printer or proprietor has been convicted, while in others the Government have accepted an apology and withdrawn the prosecutions. Nevertheless we have to acknowledge defeat. We have succeeded in the minor object of punishing a certain number of offenders; we have failed in the major, the vital, the all-important object of curing a grave evil. We have proved that the law as it stands is sufficient to enable convictions for sedition to be obtained; but we have also proved that it is not sufficient to restrain the Press within the limits of legitimate discussion. In spite of our successful prosecutions we see the most influential and most widely read portion of the Indian Press incessantly occupied in rendering the Government by law established odious in the sight of the Indian people. The Government is foreign, and therefore selfish and tyrannical. It drains the country of its wealth; it has impoverished the people, and brought about famine on a scale and with a frequency unknown before; its public works, roads, railways, and canals have generated malaria; it has introduced plague, by poisoning wells, in order to reduce the population that has to be held in subjection; it has deprived the Indian peasant of his land, the Indian artisan of his industry, and the Indian merchant of his trade; it has destroyed religion by its godless system of education; it seeks to destroy caste by polluting, maliciously and of set purpose, the salt and sugar that men eat and the cloth that they wear; it allows Indians to be ill-treated in British Colonies; it levies heavy taxes and spends them on the army; it pays high salaries to Englishmen, and employs Indians only in the worst-paid posts;—in short, it has enslaved a whole people, who are now struggling to be free.

"My enumeration may not be exhaustive, but these are some of the statements that are now being implanted as axioms in the minds of the rising generation of educated youths, the source from which we recruit the great body of civil officials who administer India. If nothing more were said, if the Press were content to

'let the lie
Have time on its own wings to fly,'

things would be bad enough. But very much more is said. Every day the Press proclaims, openly or by suggestion or allusion, that the only cure for the ills of India is independence from foreign rule, independence to be won by heroic deeds, self-sacrifice, martyrdom on the part of the young, in any case by some form of violence. Hindu mythology, ancient and modern history, and more especially the European literature of revolution, are ransacked to furnish examples that justify revolt and proclaim its inevitable success. The methods of guerilla warfare as practised in Circassia, Spain, and South Africa; Mazzini's gospel of political assassination; Kossuth's most violent doctrines; the doings of Russian Nihilists; the murder of the Marquis Ito; the dialogue between Arjuna and Krishna in the *Gita*, a book that is to Hindus what the *Imitation of Christ* is to emotional Christians—all these are pressed into the service of inflaming impressionable minds. The last instance is perhaps the worst. I can imagine no more wicked desecration than that the sacrilegious hand of the anarchist should be laid upon the Indian Song of Songs and that a masterpiece of transcendental philosophy and religious ecstasy should be perverted to the base uses of preaching political murder. The poison, however, is widely diffused by a variety of methods, and antidote there is none. The side of Government is represented in the Indian Press by a few papers of small circulation which never reach the persons whose minds are prejudiced by the attack. Sedition has the monopoly of its audience, and that audience is large and is increasing daily. No means are left untried to swell its numbers and to infect the masses of the people. The peaceful life of the village has been invaded by youthful enthusiasts who read out to an illiterate audience, attracted by natural curiosity, articles preaching the doctrines which I have described. Emissaries disguised as religious devotees travel about the country and spread the gospel of anarchy among simple folk who believe that whatever is printed must be true. Worst of all, attempts are being made to enlist the women of India on the side of rebellion by disseminating in the zenana libels upon the Government—among them that infamous story about the introduction of plague. Was there ever such sacrilege as this—that the renaissance of Indian womanhood, their awakening to a new intellectual life, should be threatened at its outset by influences such as these? In all ages—from the time of your own Epics and the old Roman legend of the Sabine girls—women have been the peacemakers of the world. Their mission has been to heal race-enmity, not to foster it. Is the Sakuntala of the future to grow up in an atmosphere of treason, plotting

murder and designing bombs? If she does, she will certainly not be the Sakuntala of the Indian poet.

"The consequences of this ever-flowing stream of slander and incitement to outrage are now upon us. What was dimly foreseen a few years ago has actually come to pass. We are at the present moment confronted with a murderous conspiracy, whose aim it is to subvert the Government of the country and to make British rule impossible by establishing general terrorism. Their organisation is effective and far-reaching; their numbers are believed to be considerable; the leaders work in secret and are blindly obeyed by their youthful followers. The method they favour at present is political assassination: the method of Mazzini in his worst moods. Already they have a long score of murders or attempted murders to their account. There were two attempts to blow up Sir Andrew Fraser's train and one, of the type with which we are now unhappily familiar, to shoot him on a public occasion. Two attempts were made to murder Mr. Kingsford, one of which caused the death of two English ladies. Inspector Nanda Lal Banerji, Babu Ashutosh Biswas, the Public Prosecutor at Alipore, Sir William Curzon-Wyllie, Mr. Jackson, and only the other day Deputy Superintendent Shams-ul Alam, have been shot in the most deliberate and cold-blooded fashion. Of three informers two have been killed, and on the third vengeance has been taken by the murder of his brother in the sight of his mother and sisters. Mr. Allen, the Magistrate of Dacca, was shot through the lungs and narrowly escaped with his life. Two picric acid bombs were thrown at His Excellency the Viceroy at Ahmedabad, and only failed to explode by reason of their faulty construction. Not long afterwards an attempt was made with a bomb on the Deputy Commissioner of Umballa.

"These things are the natural and necessary consequence of the teachings of certain journals. They have prepared the soil in which anarchy flourishes; they have sown the seed and they are answerable for the crop. This is no mere general statement; the chain of causation is clear. Not only does the campaign of violence date from the change in the tone of the Press; but specific outbursts of incitement have been followed by specific outrages.

"And now, Sir, I appeal to the Council in the name of all objects that patriotic Indians have at heart to give their cordial approval to this Bill. It is called for in the interests of the State, of our officers both Indian and European, and most of all in the interests of the rising generation of young men. In this matter, indeed, the interests of the State and the interests of the people are one and the same. If it is good for India that British rule should continue, it is equally essential that the relations between Government and the educated community should be cordial and intimate, and that cannot long be the case if the organs of that community lay themselves out to embitter those relations in every sort of way and to create a permanent atmosphere of latent and often open hostility. In the long run people will believe what they are told, if they are told it often enough, and if they hear nothing on the other side. There is plenty of work in India waiting to be done, but it never will be done if the energies of the educated classes are wasted in incessant abuse and suspicion of Government.

"As regards the officers of Government, the case is clear. At all costs they must be protected from intimidation, and worse. And it is our Indian officials who stand in most need of protection, for they are most exposed to the danger. The detailed work of investigation and detection necessarily falls upon them, and they are specially vulnerable through their families. They have done most admirable work during the troubles of the last few years, and have displayed under most trying conditions courage and loyalty that are beyond all praise. We are bound in honour to protect them from threats of murder and outrage which sooner or later bring about their own fulfilment.

"To my mind, Sir, the worst feature of the present situation is the terrible influence that the Press exercises upon the student class. I was talking about this about a month ago with a distinguished Indian who is in close touch with schools and colleges in Bengal. He took a most gloomy view of the present state of things and the prospects of the immediate future. According to him, the younger generation had got entirely out of hand, and many of them had become criminal fanatics, uncontrollable by their parents or their masters. As an illustration of the spirit that is abroad, he told me that one of the examiners for the last Matriculation of the University had received a threatening message that if he reported to the authorities a particularly gross case of cheating 'a Browning pistol was ready for him.' I may

set by the side of this, as a companion picture, the following passage in Sir Lawrence Jenkins's judgment in the Alipore Appeal. Speaking of the *Jugantar* his Lordship says :—

" ' Perhaps no more striking illustration of its pernicious and insidious influence can be found than in the postcard, Exhibit 1079, addressed to Abinash and found in the course of the search at 4, Raja's Lane. It runs as follows :—

" ' Bande Mataram,

" ' SIR, Mirasi, 7th September, 1907.

" ' From your advertisement, articles, and your bold writings, I understand that he alone, who has the subversion of the Firingee (British) Government at heart, should by all means read the *Jugantar*. I, a schoolboy, living in a hilly country, don't feel any oppression of the Firingees, and I give way before people for want of information. I am, therefore, in need of *Jugantar*. For it acquaints us to a great extent with the devices of driving away the Firingees and also makes us alive to wrongs. I am extremely in straitened circumstances, hardly able to procure one meal a day; nevertheless my desire for newspaper reading is extremely strong. Hence I approach you as a beggar. Ah! do not disappoint such an eager hope of mine. Please grant my prayer. I shall pay the price when I shall have the means. Please ever oblige me by sending a sample copy with an expression of your intention. I hope you will favour me by enlisting me as a subscriber. Further, please don't fail to send a sample copy.

" ' Submitted by

" ' SREE DEBENDRA CHANDRA BHATTACHARJEE,

" ' P.O. Muchikandi, Mirasi,

" ' Sylhet."

" It is very dreadful, but it is also rather pathetic, and it throws a great light on the enthusiastic, impressionable, and at times rather hysterical temperament of the Indian student. We must do what we can to save these boys.. We cannot look on passively at the progressive demoralization of the youth of India. I believe, Sir, that this Bill will prove to be a wholesome and beneficial measure of national education, that it will in course of time prevent a number of young men from drifting into evil courses and ruining their prospects in life, and that in passing it this Council will earn the lasting gratitude of many thousands of Indian parents."

The motion was put and agreed to.

The Hon'ble Sir HERBERT RISLEY introduced the Bill.

The Hon'ble Sir HERBERT RISLEY moved that the Rules of Business be suspended.

The PRESIDENT declared the Rules suspended.

The Hon'ble Sir HERBERT RISLEY moved that the Bill be referred to a Select Committee consisting of the Hon'ble Mr. S. P. Sinha, the Hon'ble Sir Harold Stuart, the Hon'ble Mr. Kenrick, the Hon'ble Mr. Quin, the Hon'ble Mr. Lyon, the Hon'ble Mr. Gokhale, the Hon'ble Maharaja of Burdwan, the Hon'ble Zulfikar Ali Khan, the Hon'ble Mr. Mudholkar, the Hon'ble Mr. Graham, the Hon'ble Pandit Madan Mohan Malaviya, and the mover, with instructions to report on Tuesday, the 8th instant.

The motion was put and agreed to.

No. 3.

Extract from the proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 *to* 1909 (24 & 25 *Vict., c.* 67, 55 & 56 *Vict., c.* 14, *and* 9 *Edw. VII., c.* 4).

The Council met at Government House on Tuesday, the 8th February, 1910.

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PRESS BILL.

The Hon'ble SIR HERBERT RISLEY presented the Report of the Select Committee on the Bill to provide for the better control of the Press, and applied to the

President to suspend the Rules of Business to admit of the Report being taken into consideration.

His Excellency the PRESIDENT declared the Rules suspended.

The Hon'ble SIR HERBERT RISLEY moved that the Report be taken into consideration.

The Hon'ble Mr. GOKHALE said: "My Lord, it is a cruel irony of fate that the first important measure that comes before the Reformed Council is a measure to curtail a great and deeply cherished privilege which the country has enjoyed, with two brief interruptions, for three-quarters of a century. But while the plans of statesmen have matured slowly, events designed by malignant fates to frustrate their purpose have moved faster. And thus we find that just when the scheme of reforms has materialised, the sky is dark with clouds which probably will roll away before long, but which for the time wear a threatening aspect. My Lord, I confess that the regret with which I approach a consideration of this Bill has been deepened by the fact that the measure is being hurried through its several stages by suspending the standing orders and without giving the country practically any opportunity to express its opinion on it. In saying this, I do not forget the fact that Lord Lytton's Act of 1878 was introduced and passed at one sitting, nor do I overlook the consideration shown by your Lordship, after deciding to suspend the standing orders, in giving us at least these three days for consideration and in referring the Bill to a Select Committee. But, my Lord, was this unusual procedure necessary? Surely a week or ten days' delay in enacting this measure would not have made any appreciable difference to anybody, since the Bill seeks to apply to the situation what at best can only be a slow remedy. However, I do not wish to pursue this point further; I might not have said even this much, had it not been for the fact that the Government has been reproached in certain quarters for giving us even these three days.

"My Lord, in the minute of dissent which my Hon'ble friend Mr. Mudholkar and I have appended to the Report of the Select Committee, we have briefly stated our position in regard to this measure. That position I would like to amplify in the few minutes for which I propose to occupy the attention of the Council. It is admitted on all hands—the Hon'ble Member in charge of the Bill has admitted it in his speech—that the Penal Code is amply sufficient to *punish* sedition and that the special legislation of last year can effectively put down incitements to violence. What is contended however is that the punishment of seditious writings and utterances under the Penal Code, so far from restricting the area of sedition, actually widens it by reason of the unhealthy excitement it causes and keeps up for months the rush of natural sympathy of the public to the accused, the crown of martyrdom that comes to be placed on their heads and the amount of odium which the proceedings bring to the Government. And it is urged that the Government is convinced that the right plan to deal with sedition is to proceed by way of prevention rather than by way of punishment. Now, my Lord, I will at once admit that there is considerable force in the whole of this contention. But even so, section 108 of the Criminal Procedure Code, which is a means of prevention and which was introduced into the Code twelve years ago for the express purpose of placing such a means at the disposal of the Government, should have been sufficient, and what I cannot quite understand is why it has not been found effective. The only explanation I have heard is that the proceeding under that section being judicial and liable to revision by the High Court, it practically means a trial for sedition, with this difference only, that the person proceeded against, instead of being severely sentenced, is merely called upon to give security. But this was precisely the chief merit claimed for the section when it was enacted in 1898, as a reference to the proceedings of the Council of that time will show. My Lord, I cannot help saying that it would have been fairer to the Legislature if the Government had tried section 108 of the Criminal Procedure Code in some cases, instead of allowing it to remain practically a dead letter, before applying for fresh powers. Or if it was considered that the time had gone by when the section, as it stood, could be usefully applied—I myself am inclined to think that in some parts of the country the evil has now gone beyond the stage where section 108 could be applied with much effect—a proposal to amend the section so as to make its operation more simple and expeditious would have caused less disturbance to our ideas on this subject and would undoubtedly have been more acceptable.

"My Lord, the principal addition which the Bill makes to the powers already possessed by the Government for dealing with sedition is that it makes the taking

of security from printing-presses and newspapers a purely executive act. It also empowers the Executive to order the forfeiture of such security and even the confiscation of printing-presses on the ground that an offence has been committed, though here an appeal is allowed to a special Tribunal of High Court Judges. These are the main provisions and they embody what may be called the principle of the Bill. My Lord, in ordinary times, I should have deemed it my duty to resist such proposals to the utmost of my power. The risks involved in them are grave and obvious. But in view of the situation that exists in several parts of the country to-day, I have reluctantly come, after a careful and anxious consideration, to the conclusion that I should not be justified in opposing the principle of this Bill. It is not merely the assassinations that have taken place, or the conspiracies that have come to light, or the political dacoities that are being committed, that fill me with anxiety. The air in many places is still thick with ideas that are undoubtedly antagonistic to the unquestioned continuance of British rule, with which our hopes of a peaceful evolution are bound up; and this is a feature of the situation quite as serious as anything else. Several causes have contributed to produce this result, of which the writings in a section of the Press have been one. And to the extent to which a remedy can be applied to these writings by such executive action as is contemplated in the Bill, I am not prepared to say that the remedy should not be applied. There is no doubt that even if the powers conferred by the Bill are exercised judiciously, some inconvenience and even hardship is inevitable to well-intentioned concerns. And if the powers are not exercised with care great harm is bound to follow. Moreover, as long as this law continues in force, even the best Indian concerns must work in an atmosphere of uncertainty and apprehension. But all these risks may be temporarily borne if they help in some measure to free the air of ideas of which I have spoken. Only it is of the utmost importance that they should be temporary, and I therefore most earnestly urge that the operation of this law should be limited to a period of three years only. Further, I think the rigour of some of the provisions can well be softened without rendering the Bill less effective. With these, however, I will deal when I move the amendments of which I have given notice.

" My Lord, I have said that the situation in several parts of the country is an anxious one. That however does not mean that in my opinion things are really going from bad to worse. On the contrary, I entirely share the view which was so clearly and firmly expressed by your Lordship on the opening day of this Council —a view in such striking contrast to the nervous opinions that one hears on so many sides, especially in this city—that the general situation is far easier to-day than it ever was during your Lordship's time. There is no doubt whatever that the Reform Scheme, despite considerable dissatisfaction about details, has largely eased the tension of the situation and has brought over to the side of the administration factors that might otherwise have remained sullenly or helplessly aloof. There is no doubt also that these wicked assassinations and dacoities which have been disfiguring the page of Indian history since last year have at last roused the Indian community to a sense of the great danger in which it stands. Our community is a slow-moving community, but once it begins to move, it moves surely. And any one who can read the signs may see that it has shaken off its lethargy and begun to advance to the support of law and order. My Lord, the crop of violence that has now come to the surface had its grounds prepared five years ago. I sincerely believe that no new ground is being added to it and though we may not have seen the last of these outrages, I think we are nearer the end than many imagine. But the juncture is a most difficult and delicate one, and if ever any juncture called for the utmost tact and conciliation, such as we have now learnt, despite repressive measures to which you have been from time to time driven, to associate with your Lordship's name, that juncture is the present. Angry cries for reprisals, however natural and even justified, will not mend matters and will certainly not assist the task that lies before the Government. My Lord, I am not one of those who think that any appreciable section of the Indian Press has always been seditious or that the Press in India has, on the whole, done more mischief than good. On the contrary, our Press has been in the main a potent instrument of progress; it has quickened our national consciousness; it has spread in the country ideas of justice and equality not only between man and man but also between class and class; it has stimulated our public spirit; it has set us higher standards of public duty. And till five years ago, I do not think that, barring a very few exceptions, any section was actually seditious, if by sedition a desire to see British

rule overthrown is understood. A considerable proportion was no doubt often ill-informed, prejudiced, even intolerably bitter in its comments on the administration and its measures; but this sprang mainly from ignorance and from a feeling that grievances were not redressed, and not from any actual hostility to the rule itself. During the last five years seditious ideas have no doubt spread more or less in all parts of the country and in some parts more rapidly and extensively than in others. This, however, has been due to special causes which are now well understood and over which it is unnecessary to dwell. I think, my Lord, my countrymen are now growing alive to the fact that nothing is more surely destructive of our hopes of future progress than the spread of these ideas in the land. In my opinion, our first duty is to help in removing these ideas from the air, and because I feel this most strongly, I am prepared to let the Government apply to the situation even the drastic remedies contemplated by this Bill. I do not know if we shall succeed in overcoming the evil altogether. Even if it lies dormant for a time there is much in the situation itself which will constantly tend to stir it into fresh activity. I have already said that several causes have combined to bring about the present state of things. It is of course impossible to go into all of them, but one of them may be mentioned—it is the writings in a section of the Anglo-Indian Press. My Lord, I doubt if many Englishmen realise how large a share these writings have had in turning so many of my countrymen against British rule. The terms of race arrogance and contempt in which some of these papers constantly speak of the Indians and specially of educated Indians cut into the mind more than the lash can cut into the flesh. Many of my countrymen imagine that every Anglo-Indian pen that writes in the Press is dipped in Government ink. It is an absurd idea, but it does great harm all the same. My Lord, I feel bound to say that this Bill by itself cannot achieve much. It is even possible that the immediate effect of its passing will be to fill the public mind with a certain amount of resentment. And unless the powers conferred by it are used with the utmost care and caution, the evil which they are intended to combat may only be driven underground. Force may afford temporary relief, but it never can prove a permanent remedy to such a state of things as we have in this country. It is only in the co-operation of all classes and the steady pursuit of a policy of wise conciliation on the part of Government that the best hopes of thoughtful men on both sides for future of this land must lie."

The Hon'ble SARDAR PARTAB SINGH said: " My Lord, the Bill which is to-day before this Council I am sure has the unanimous support of all my fellow members from the Punjab and of myself. It will, I am confident, be welcomed with the keenest gratification by all the law-abiding classes in our Province, and the law-abiding classes I am happy to say practically comprise the whole population, with the exception of a small number of persons whose ranks have been recruited through the influence of a disloyal and seditionary Press working upon the susceptible imaginations of young men of the student class. Efforts have from time to time been made by the journalist agitator class to enlist the general population, and the peasant in particular, in the campaign of hostility against Government. Such efforts, my Lord, I am happy to say, have so far signally failed. The agitation which culminated in the riots at Rawalpindi sought to make capital out of the assessment operations of the revenue officers, but so far as I am aware, not a single zamindar is known to have participated in those riots. For the disgraceful scenes which were witnessed in Lahore when the editor of the " Punjabee " newspaper was convicted, the persons responsible were the youthful admirers of the advanced journalism, which in 1907 had reached a state of outrageous contempt for constituted authority, which threatened to annihilate all respect for the Government of the country. That the Press is made the mouthpiece of the seditionist everywhere, that the Press is the seat of the mischief, we have had a striking piece of testimony.

" In reply to a 1st of January address presented by him by a deputation of the Hindu community, the Lieutenant-Governor of my Province took occasion to review the present unsatisfactory condition of affairs in the country generally and to call upon the leaders of the Hindu community to take some steps more practical than the mere passing of resolutions to bring about an amelioration in the conditions of the body politic. Since I have reached Calcutta, I have noticed in the Lahore telegrams an announcement that an influential Hindu syndicate has been formed to buy up the " Punjabee " newspaper. If I may venture to make a suggestion to my countrymen from the other provinces, those who may not yet have seen their way to render any practical assistance to Government in the campaign against

sedition, may I suggest that the acquisition of control of the more disloyal newspapers, either with the purpose of suppressing them entirely, or with a view to modification of their tone and politics, would be an operation productive of most salutary consequences. Nor is the Hindu community alone in recognising the seditious newspapers as the source of the disease from which we are suffering. His Highness the Raja of Jhind, following I believe the meritorious example of the Maharaja of Jaipur, has prohibited absolutely the importation to his State of some of the more objectionable journals. The co-operation of the ruling Princes with the Government of India in the campaign against sedition is to my mind the brightest feature of the present situation. And I am confident that my own relative the Maharaja of Kapurthala will not be backward in his measures for dealing with the enemies of Government should such an occasion arise. The ruling princes of India, my Lord, have reason to be deeply grateful to your Excellency for providing in this Bill a clause protecting them from the whole tribe of traducers and blackmailers, who from the shelter of British territory use the columns of the more disreputable journals to calumniate the highest and noblest in the land. My Lord, to my mind the time has come when those who have any stake in the country should openly be on the side of law and order, express their abhorrence of sedition and anarchy in the strongest terms, and do all that lies in their power to strengthen the hands of Government at this crisis. My Lord, with the foregoing remarks, I beg to support this measure."

The Hon'ble RAJA VAIRICHERLA VAIRABHADRA RAZU BAHADUR OF KURUPAM said: " My Lord, I entirely agree with the tenor of the new Press Bill as a whole. It is, no doubt, a genuine effort on the part of the Government to put a substantial check on the uncontrollable, slanderous pen and to enable irresponsible persons to realise their own position before recklessly rushing into print. It is a regrettable but doubtless necessary step under existing conditions. At the same time, I believe that, if the Government had acted more promptly and decidedly in the first instance, in crushing the advance of sedition, the necessity for this measure would not have arisen now. It was, however, only Your Excellency's astonishing patience, that striking characteristic of a strong and an able administrator, that led you to postpone the evil day, hoping against hope that the misguided and misleading adversaries of Government would come to see the error of their ways before it was too late. It was this long-suffering shown by Government, in having patiently undertaken 47 successful prosecutions instead of in the first instance taking one drastic measure that would have nipped the whole of the movement in the bud, that has been coustrued into weakness, and undue and hostile advantage has been taken of the same.

" I appreciate the Bill because it saves the worry and trouble of expensive and tedious Press prosecutions and has the peculiar feature of giving much less scope for police interference at the first instance. A respectable Press has nothing to fear from this Act. Your Excellency's Government has given India ample proof that it does not desire to suppress fair and just criticism of its measures. This Act will lie heavily on the shoulders of those only who seek to undermine or subvert British rule. Sedition-mongers will now receive short shrift. It is but urgent that, with a strong hand and iron will, the Government should take decisive steps to knock sedition on the head; but, at the same time, it is fitting that it ought to take all necessary care not to stifle public opinion. While giving ample powers to the Magistrate, the Act has also to provide against the misuse of such powers so as not to bring discredit to the fair name of the most benevolent British rule. I would therefore humbly suggest a slight alteration in the Bill in sections 3 (1) and 8 (1), which deal with the powers of the Magistrate. I would suggest that, instead of leaving it to the sole discretion of the Magistrate to determine the amount of security or to declare whether a particular article, book, pamphlet or statement published is seditious or not, that he be guided by at least three non-official gentlemen of local standing to be notified by the Local Government for each such district to form an Arbitration Court with the Magistrate as president who shall have a casting vote when necessary. And since the local gentlemen shall be in immediate touch with the antecedents and circumstances of the person concerned, they will be in a better position to help the Magistrate in arriving at a correct decision as to the nature of the case under inquiry. This will be in perfect keeping with the spirit of the Reform Scheme and, I humbly hope, will calm down the objections urged in certain quarters against the Bill. With this humble suggestion I give this measure my warm and hearty support, since we zamindars know that Government interests and

ours are one and that we both must stand or fall together. We have nothing to fear while under the ægis of British rule; we shall have much to fear if that power ceases to be dominant.

" Even if we are blind to the advantages accruing from British rule, even if we are dead to the remembrance of past benefits and kindness received from the British Government and allowed ourselves to be actuated only by sordid self-interest, even then, I say, we must feel that we are serving our own interests best by doing all in our power to strengthen the hands of the Government in heartily supporting this measure."

The Hon'ble Mr. DADABHOY said : " My Lord, the Bill before us marks another step in the repressive policy that has unfortunately been followed during the past three years, and forms a part of a series of measures taken with the object, which has the sympathy of every loyal Indian, of suppressing sedition and anarchy. It is a matter of poignant grief to us all that such a restrictive measure should be almost synchronous with the introduction of the largest administrative reform undertaken since British occupation, and should further be associated with the honoured name of a Pro-Consul who has broadened the basis of British Indian administration such as has never been attempted before. Free Press, my Lord, the earlier history of the country notwithstanding, is now after such long enjoyment a valued institution in India, and any, the least, encroachment upon its rights, whatever the pressure under which it is made, is viewed with some little suspicion and disappointment by the people. The Bill can therefore never be a popular measure, and will fail to evoke the enthusiastic support of the country which the Hon'ble mover apparently expects. But the people fully realise the gravity of the difficulties which beset the Government at the present moment; they are as much anxious as the Government for the eradication of an evil that promises to involve the good and the bad, the guilty and the innocent, in one common ruin. All said, my Lord, educated India is anxious for the continuance, nay, the permanence, of British suzerainty. The highest dictates of policy and self-interest prompt their loyalty to the British Raj; at the same time they are actuated by a natural desire for improvement, and they rely upon constitutional methods for the realisation of their hopes. In these circumstances they can have no interest in the subversion of law and order. They are whole-heartedly with Government in their efforts at the maintenance of these. But unfortunately they do not see eye to eye with Government as regards the *modus operandi*, and they regard the Bill under discussion as likely to defeat its own object, by rousing the suspicions of the people, by alienating their sympathies, and by giving a handle to seditionists for secret vilification of the Government.

" My Lord, for the Hon'ble Sir Herbert Risley I have the greatest respect. We all admire his scholarship; we gladly acknowledge his large and varied administrative experience. But he will permit me to say that Austrian authorities and the policy of the Iron Chancellor of Germany are the least calculated to secure popular support to the measure. Indians are the citizens of the British Empire, the most progressive Empire in the world; and they have been taught by their rulers to regard the free institutions of that noble Empire as the wisest means of national development and national advancement, and as objects well worthy of patriotic pursuit. What therefore a backward Continental country does or does not do is beside the mark. The narrow policy of such a country can never serve as a model for the enlightened British administrator. Besides, if the comparison between India and Austria be so close, why cannot India have the same sort of Parliament which Austria has? The people may inquire if Austria has any such special electorates as we have now come to have.

" It is at least questionable if the new measure will attain its ambitious object. —' the major, the vital, the all-important object of curing a grave evil.' The laws recently passed have admittedly failed to suppress anarchy. The present Bill is brought forward as a supplementary measure, and if this again fails, as it is feared it will, more drastic measures might have to be thought of. Eventually we might exhaust our resources of preventive legislation and still fail to attain our aim and to check anarchism.

" My Lord, in my humble opinion, there is some misapprehension about the casual connection between the writings of the less violent Press, for the control

of which this Bill is meant, and the growth of anarchy. The Hon'ble mover thinks the causation is clear, but his own references to the past history of the Press would seem to throw doubt upon the dictum. The Press, I understand from his introductory speech, was equally bad in 1877; the journalists then used to preach rank sedition. And yet murderous attacks were not known for thirty years. Anarchism is of very recent growth. The seditious Press can under the circumstances hardly be held responsible for the genesis of anarchism. The tone of the Press would appear to have improved since 1877, judged by the well-considered pronouncements of Your Excellency's illustrious predecessors, Lords Dufferin and Curzon. On March 23rd, 1888, eleven years after Sir Richard Temple condemned the Press, Lord Dufferin, in the course of his reply to the farewell addresses presented to him in Calcutta on the eve of his departure from India, speaking of 'the protection and freedom of speech extended to them (the people) by the laws of England,' said, 'a freedom which a considerable portion of the Indian Press, I gladly acknowledge, exercises with sagacity, discretion, and moderation.' Lord Curzon, in February, 1902, as Chancellor of the Calcutta University, observed: 'On the contrary, I think that Native journalism in India is steadily advancing, and that it is gaining in sobriety and wisdom.'

"We must look to other causes and other quarters therefore for the introduction of the cult of anarchism. To my mind the etiology is simple. Anarchism must have some grievance to work upon which, among inexperienced, thoughtless, impulsive and volatile young men, has developed a loss of faith in constitutional methods, a morbid penchant for indefensible violence. It will be true statesmanship to remove this root cause, and thereby to restore to Young India their former faith in lawful and constitutional representations and in British justice and British sympathy. My Lord, there is need more for sympathetic treatment than repression; there is greater need for a continuity and expansion of the benevolent and progressive policy Your Excellency has so generously initiated. It has been truly said of anarchists that repression often fails to repress. Lord Morley on June 6th, 1907, observed: 'A policy of severe repression is worse than useless.'

"Besides, the Hon'ble mover says that there is 'a murderous conspiracy,' in the land, and that 'their organisation is effective and far-reaching, their numbers are believed to be considerable, the leaders work in secret and are blindly obeyed by their youthful followers.' That being so, the view appears too optimistic that any control over the Press will check the activity or the growth of the body. It is difficult to believe that a body working in darkness and blindly following astute leaders should depend for nourishment upon journalistic pabulum. For the suppression of anarchism we must depend upon the ordinary penal laws and, even more than that, upon sympathy. According to Lord Morley, 'the Indian people are peculiarly responsive to sympathy and personal influence,' and when the people are drawn to the side of Government by sympathy, the ground will become uncongenial for the growth of anarchism, and it will cease to disturb the peace for want of recruits. A Press law, the severest of its kind, is a weak check to the operations of the anarchist. It will hardly do much to dispel from the minds of educated Indians that impatience at administrative limitations, that yearning for autonomy which is likely to be mistaken for sedition. Truer words have not been said than what fell from Lord Morley on the occasion of introducing the Reform Scheme into the House of Lords:—

> "'Supposing you abolish freedom of the Press or suspend it, that will not end the business. You will have to shut up schools and colleges; for what would be the use of suppressing newspapers, if you do not shut the schools and colleges? Nor will that be all. You will have to stop the printing of unlicensed books. The possession of a copy of Milton, or Burke, or Macaulay, or of Bright's speeches, and all that flashing array of writers and orators who are the glory of our grand, our noble English tongue—the possession of one of these books will, on this peculiar and puerile notion of Government, be like the possession of a bomb, and we shall have to direct the passing of an Explosive Books Act. All this and its various sequels and complements make a policy if you please. But after such a policy had produced a mute, sullen, muzzled, lifeless India, we could hardly call it, as we do now, the brightest jewel in the Imperial Crown.'

"I admit, my Lord, certain journals having incited the youth of the country

to violence, but it is not for the suppression of them that the Bill has been introduced. They can be and are dealt with under the previous Acts. The more violent among them have already been suppressed. While the present measure will not affect them it will cause heartburning among the whole people. 'Security,' in the criminal administration of the country, has ugly associations, and no one can be expected to submit to that preventive treatment without feelings of humiliation. English precedents in this matter are an unsafe guide. In India the people are sensitive to a degree. Treatment which will not elicit comment in England might give serious offence to the Indian. The popular irritation will be there, and might unhappily further aggravate the evil. The expediency of the measure, after all, is problematical.

"So far about the policy. The details, too, are not wholly satisfactory. The grounds on which action may be taken against offending papers are, I respectfully submit, too wide and comprehensive to allow of free *bonâ fide* criticism of the acts of Magistrates and Judges. It is doubtful if the effect of such criticism can be entirely free from a tinge of disaffection. Besides, the provincial papers with small working capital will be at the mercy of the subordinate executive. The Local Government, it is true, has the initiative, but in practice Magistrates will largely influence the decision. A demand for security, against which there is no appeal to any tribunal, will mean closure in their case. The exercise of the right of appeal to the High Court against forfeiture, valuable as it is, in their case will be beset with difficulties which not many will be able to surmount. So far as this aspect of the Bill is concerned, the main objection is that it substitutes executive action for judicial trial, and in effect shifts the *onus probandi* as regards merits from the prosecution to the defence. A journalist is at first in a manner convicted of sedition, and then if he can establish his innocence before the highest tribunal, his stain can be removed, and he can be allowed to ply his trade. This is incompatible with the enlightened jurisprudence that has for a century-and-a-half impregnated and ennobled the administration of criminal justice in this country.

"My Lord, people also regret it has not been possible for Government to allow the country more time for a free discussion of a measure of this import. The Hon'ble mover has reminded this Council that some of the provisions of the Bill have been taken verbatim from Act IX. of 1878. It would seem that the procedure of discussion followed then has almost been followed on this occasion, in disregard of the salutary principle laid down by the Hon'ble Sir Alexander Arbuthnot in moving the amendment of that Act in October, 1878 :—

> "'There is no principle to which the Government of India attach a higher importance—there is no policy upon which they lay greater stress—than that of submitting their legislative projects to the freest and fullest public discussion. They would greatly deplore any general departure from that policy; and if such a result were to follow from the course which it was deemed expedient to pursue on the occasion to which I am referring, they would regard it as seriously detrimental to the public interests and prejudicial to the efficiency of the administration.'

"My Lord, I offer these criticisms in sorrow, in all humility, from a sense of duty, and not in a spirit of opposition to Government. I realise its difficulties, and I sympathise with it; I have no desire to embarrass it in the least in the presence of a portentous danger; and in proof of the sincerity of my profession I support the measure, even though it appears to me inexpedient. I do not object to the Government assuming larger powers for the maintenance of law and order, which is the first duty of all Governments. Anarchism is not discriminating in its choice of victims, and is as much a menace to the peaceful citizen as to the official. Duty and self-interest alike, therefore, prompt the willing co-operation of the nation with Government in its crusade against this new pestilence. The only question is: What is the most effective way of putting down the evil? I wish, my Lord, this was settled by Government in consultation with the leaders of the different communities. The time has not yet passed for that, and the collaboration of the Government and the people may yet evolve something more effective and harmless than a restrictive Press law. Meanwhile, when Government suggests a remedy, albeit a remedy that does not commend itself to the people, policy and prudence would counsel a trial, whatever the temporary inconvenience. These considerations prompt my vote on this occasion, and I readily respond to Your Excellency's call for support. But the working of the law within a short time, I apprehend, will

prove its unsuitability to the circumstances of the country, and of its ineffectiveness as a preventive of anarchy and sedition. Once Government is convinced, conducted as it always is on enlightened principles, I am sure the law will be repealed, and the Indian Press will once again enjoy that liberty of speech which is inseparably associated with British administration. A law of this nature can never be anything but a temporary measure. As the *Spectator* forcibly observes: 'We must always look upon such measures as temporary precautions; India cannot be governed by series of restrictions which contain no seed of progress, no possibility of fructification.' In according my support to the measure, I earnestly hope and trust that the cloud on the Indian sky will pass away before long, and leave the Government free to move on its accustomed lines of progress and advancement, and to further consolidate the Empire by repealing the restrictive laws and giving fuller rights of citizenship to the people."

The Hon'ble the MAHARAJADHIRAJA BAHADUR OF BURDWAN said: "My Lord, in supporting this measure that is before the Council to-day, I wish to make a few observations. I welcome this measure, not as a repressive measure, because repression is of doubtful merit, but because it is a protective measure against writings that lead to sedition and lawlessness. My Lord, the Press in India has got yet to learn the responsible duties of the Fourth Estate. If along with healthy criticisms about Government, Government officials, Government measures and men of mark, the editors and proprietors of the different newspapers in India were to realise that it lies within their power to foster good feelings between the Government and the people, if they were to realise this fully, I am perfectly certain, Sir, that the Government would be amply satisfied about the progress of the Press in India, and our labours on the Select Committee would then be crowned with success.

"Now, my Lord, I shall indulge in a few remarks which I trust will not be misconstrued. If we analyse the causes that have led to the present situation, if we analyse what use has been made by a certain section of the Press, we find that on the one side men without proper ideas of responsibility have abused the powers, have betrayed the confidence placed in them by Government. If, on the other hand, we were also to analyse, we would find that the unbridled license to slander has been unfortunately permitted to go on for a longer time than it was healthy for the state of affairs in India. My Lord, this brings us to the doubt that exists in the minds of many loyal Indians as to the advisability of introducing everything Western into this land, particularly politics. At present the unrest or discontent lies amongst a certain section of the educated community of India. The awakening of the masses of India has yet to come, and as a patriotic Indian I trust it will come some day: but I wish that awakening to be guided into proper and healthy channels that can be good for the Indians. I therefore think, Sir, that when this liberty of speech was introduced into this country, if a little more care had been taken to foresee the results, we would not have had the outcry that we have to-day regarding this mild measure before us.

"My Lord, Western socialism too is beginning to make a headway in India. Fortunately, that socialism is at present only known to some of the educated men in the country, and that is why the educated mind does at times get perplexed; for instance, when it sees that, while the Government takes active measures for putting down sedition in India, it allows a Labour Member, or in other words a white sardar coolie in the shape of Mr. Keir Hardie, to have the audacity to say that 'the time had come for the Crown to be thrown into the melting pot.' My Lord, these are the dangers of Western socialism. If this socialism permeated among the masses of India, and took a deep root there, no amount of loyal zamindars or loyalists would be able to do anything, for things would be too advanced: their own prestige would be gone by then. It is therefore, my Lord, that with humble submission, I beg to point out that the time has come to seriously consider whether we are to allow India to be made the dumping ground of Western politics, political thoughts and socialism. My Lord, our rulers come from the West, our beloved Sovereign lives in the West; therefore it is essential that we of India must be westernised to a great extent. But the rulers, especially the Government officials in this country, to maintain their vast Eastern Empire, must also meet us half-way, must also easternise themselves to that extent which would help in the restoration of that good will between the rulers and the ruled which unfortunately is in certain quarters under a cloud at present.

"With these few remarks, my Lord, I support the Bill."

The Hon'ble SIR HAROLD STUART said: "My Lord, I shall not trespass for long on the forbearance of the Council, but I should like to offer a few observations on some of the criticisms that have been directed against this Bill. One of the first arguments that I wish to notice is that of those who allege that no further control of the Press is required beyond that given by the existing law. Now, my Lord, the existing law has failed in several directions. It has no doubt brought about a great diminution, if not an entire cessation, of open incitements to violence, and any success which has been obtained in that way is a strong argument in favour of the Bill; for such success must, I think, be attributed to the fact that for incitements of that kind—these violent incitements to murder—the offending press can be forfeited. But the application of the existing law to ordinary seditious publications, the kind of seditious matter which is defined in the Indian Penal Code, has failed to produce the desired improvement. That law has been systematically enforced since June, 1907, and, as the Hon'ble Member in charge of the Bill pointed out, not a single prosecution has failed. Yet seditious libels continue to be published, and at the present moment several cases are pending before the Courts. The punishments inflicted have been severe, but they have not been deterrent. They have not even deterred the convicted paper from offending again. We have had three papers convicted twice, and against one of these a third prosecution is now pending. We have had two papers convicted three times and we have had another paper convicted six times. In no case, however, has the prosecution deterred the conductors of those papers from again giving vent in their journals to seditious libels. Prosecution indeed often gives an advertisement to the offending paper and its circulation increases directly with conviction. The same results were experienced in Ireland before the passing of the Act of 1870 on which this Bill is modelled, and this was one of the main reasons advanced by the Government of that day for the passing of those provisions of their Act.

"Now, my Lord, the Hon'ble Mr. Gokhale has suggested to-day that the Government instead of passing this measure, or at any rate as an alternative to this measure, might have employed more largely the provisions of section 108 of the Criminal Procedure Code. That section gives power to a Local Government to direct the Magistrate to call upon the registered printer or publisher of a newspaper to furnish security to be of good behaviour, *i.e.*, to abstain from publishing seditious matter. My Lord, the Government of India and the Local Governments have been most anxious to use that provision, and at the beginning of these troublous times every endeavour was made to do so; but we very soon found that it was absolutely useless. There was a Bombay paper the publisher of which was bound over, I think, in security for Rs. 1,000 to be of good behaviour. He promptly cancelled his registration as publisher, another person under no security was registered as publisher, and thereafter we had absolutely no control over that paper. The section to which the Hon'ble Mr. Gokhale has referred with so much approval is in fact a useless weapon in our hands, and it would not be possible to amend it without abandoning its principle altogether. It is useless to take security for individual good conduct, and the Bill now before the Council transfers security from the individual to the paper or the press.

"My Lord, there is another direction in which the existing law has failed. It fails on account of the uncertainty regarding its applicability to veiled sedition—to those indirect attacks upon the intentions and good faith of the Government—attacks not upon particular measures taken or omitted by the Government, but attacks of a quite general character directed against the Government as such, against the Government because it is an alien Government.

"Then again another argument which I should like to notice is that which alleges that there is no connection between the Press and these revolutionary conspiracies to assassinate officers of the Government and those private individuals who assist the law by giving information. Well, my Lord, that is not the view of the Local Governments, that is not the view of the great majority of the members of this Council. It is not the view of that great body of educated men who see the situation steadily and see it whole. The persistent attacks on the Government, the continued preaching of the disadvantages of the British connection, particularly impress the minds of adolescents, to whom indeed they are addressed. Boys have been deliberately dragged into politics. One paper of great influence declared some time back that 'in all great movements boys and young men play a prominent part, the divine message first comes to them; and they are persecuted and they suffer for their faith.' I will not read the next sentence which sounds blasphemous to

Christian ears though I daresay the writer did not intend that; but he goes on: 'And the faith that is inseparable from childhood and youth is the faith that has built up great creeds and has diffused them throughout the world.' We know too that part of the revolutionary plan of campaign has been to sow the poison of sedition by means of the printed word, in newspapers, books and pamphlets. That has been their policy from the beginning, and a paper seized in Calcutta only the other day shows that it is their policy still. Nor are we left in any doubt as to its effects. These revolutionary societies are societies not of the raiyat who is alleged to be overtaxed, not of the artisan whose industry Britain is said to have killed, not of the trader who is said to have been robbed of his commerce. They consist of none of these, but of educated young men and boys, individuals who cannot have suffered any of these alleged oppressions of British rule, but whose immature minds have been led astray by what they have read. A number of them have given accounts of their perverted political education, and again and again we find that the first step was the reading of seditious newspapers.

" No one believes that the suppression of sedition in newspapers and books and pamphlets will immediately stop anarchy. The disease is too far advanced for that. But we do contend that it will cut off or very greatly diminish the supply of potential anarchists. And I feel convinced that every parent throughout the country will welcome with an enormous sense of relief this attempt to prevent his sons being led astray by the poisonous literature which passes itself off as a patriotic Press.

" My Lord, we have been assured (in the Press rather than in this Council, though it has been mentioned here too) that if we curtail the freedom of the Press we shall drive sedition underground. That argument will not bear examination. Violent sedition must always plot underground: if it came out in the open it could be suppressed at once. Have not the conspiracies of which we have already had experience worked underground? And can any one honestly say that they have been driven underground by restrictions on the Press? The Maniktola conspiracy had its origin years ago when Press prosecutions were practically unknown. It was in full operation before June, 1907, when the policy of systematic prosecution was inaugurated; and up to the time of its culmination the law of the Press in India was exactly the same as the law of the Press in Great Britain. There was complete freedom of the Press, but that did not prevent dangerous sedition. The so-called safety valve was working freely and still we had an explosion. The argument when applied to revolutionary violence is a futile argument. It rests too upon an entire misconception of the real meaning of that much abused phrase, the 'Freedom of the Press.'

" Some of those who use that expression seem to have but a vague idea of its meaning. It means nothing more than this, that a man may print without any previous license, but subject always to the consequences of the law. If a man publishes a paper he is exposed to the penal consequences, as he is in every other act if it be illegal. But to judge from what has been said and written in India of late there seems to be a claim that the publisher of a newspaper or a book should have a greater liberty than the ordinary citizen. That has never been the law of England, and it can never be the law of India. The law in both countries says what may not be published and prescribes the penalties for such publication. This Bill does not go beyond that. It has somewhat extended the definition of what may be called prohibited matter, but it leaves the individual free to publish what he likes at his own risk. The freedom of the Press really means freedom from censorship and the license, and this Bill provides neither for preliminary censoring nor for any arbitrary system of licensing.

" I do not think it is necessary to refer in any detail to the definition of what I have just described as prohibited matter. But I should like in that connection, my Lord, to refer to one argument which has been used and which requires some notice. It has been urged that an editor can never feel sure whether he is committing an offence or not. I should be quite content to refer that question to an impartial tribunal of editors. I will content myself with a quotation from a speech of Sir James Fitzjames Stephen, made in this Council when he was introducing the Bill to pass section 124-A of the Indian Penal Code. 'I do not believe,' said Sir James, 'I do not believe that any man who sincerely wished not to excite disaffection, ever wrote anything which any other honest man believed to be intended to excite disaffection.' That is equally true of the offences other than disaffection

with which this Bill deals. No honest editor has anything to fear. To the dishonest editors we desire to give neither sympathy nor protection.

" The Hon'ble Mr. Dadabhoy has told the Council that the taking of security imposes some sort of a stigma. This is certainly not the case and there is high authority for the contrary view. Professor Sidgwick in his " Elements of Politics," says that it is not unreasonable to require every newspaper to be registered and to require the person registering to deposit security to a certain amount in the hands of a public official. Professor Dicey in his work on ' The Law of the Constitution ' declares : ' No sensible person will argue that to demand a deposit from the owner of a newspaper or to impose other limitations upon the right of publishing periodicals is of necessity inexpedient or unjust.' So much for authority. But we have also, my Lord, a number of precedents. Every member of the Stock Exchange and of Lloyds is required to deposit security. Every member of an Inn of Court is required to deposit security. Every member of the Universities of Oxford and Cambridge, and probably of other Universities also, though I cannot speak with certainty of them, is required on entrance to deposit what is called caution money, and that deposit is retained so long as his name remains on the books of his College. I do not believe that any of us ever felt that that imposed any stigma upon us. Those are English examples, but I enquired yesterday and I learnt that members of what is called, I think, the Brokers' Association in Bombay are equally with the members of the English Stock Exchange required to furnish a deposit. Is that considered a stigma? Is it considered that these gentlemen are dishonest when they enter upon their profession of brokers? Is it considered for a moment that, when the Government and private employers demand security from their cashiers and their treasurers, that they regard those employés as dishonest? Not at all. Such security is simply taken as a security against some remote chance of subsequent lapse, and it conveys no more stigma in that case than it will in the case of the security which under this Bill will be demanded from publishers of newspapers and keepers of printing-presses.

" My Lord, there have been complaints that the Bill has been hurried through its stages and that time has not been given for the consideration of criticisms. I doubt if we should have had a single additional criticism if the Bill had been before the public for a month. We had on the Select Committee learned and capable members who presented the case against the Bill with completeness and marked ability. Their eloquent arguments were fully considered and will again be considered by the Council to-day. Lord Lytton's Act was far more drastic than this Bill and the state of the Press was certainly not so bad as it is now, nor had it produced such terrible consequences; yet that Act was passed at a single sitting. Hon'ble Members had that Bill in their hands for only a few hours, and the present Bill has been before them for several days, and has been referred to a Select Committee and has been adequately discussed, while a number of amendments will be moved to-day to vary its various provisions.

" My Lord, this is not a drastic or arbitrary measure. The counterpart of its provisions will be found in an Act passed by so great a Liberal statesman as Mr. Gladstone. As he said in his speech in the House of Commons, ' the question is whether the measure is required by the circumstances and whether it is adapted to the circumstances.' My Lord, we believe that it is adapted to the circumstances; that it is required by the circumstances no one can doubt for a moment. The evil done by a section, a large section, of the Press is great and growing. It may be true that the worst papers are the small papers, but those papers are very numerous; and even some of the most important, those with large circulations, have pursued a policy of persistent misrepresentation, tending to undermine the loyalty of the people towards the King and the Government by law established. This goes on throughout the country. It is here a little and there a little, but ' *Gutta cavat lapidem non vi sed saepe cadendo.*' We must put an end to this continual dropping of poison, and we must do so before it is too late."

The Hon'ble NAWAB SAIYID MUHAMMAD SAHIB BAHADUR said : " My Lord, with your Lordship's permission I desire to say a word or two on the Bill before us, as I do not wish to record a silent vote. I admit that the present evils are greatly due to the teachings of certain journals, and I think it is absolutely necessary to have some sort of control over that section of the Press which is believed to exercise an undesirable control upon the student class. It is to be much regretted that the Government were forced to have recourse to legislation such as proposed in the present Bill. At the same time I venture to think that any repressive measure will

not be taken by Your Excellency's Government unless, as was pointed out by Your Excellency in the course of the graceful and admirable speech in which you were pleased to welcome us to this Council, it is very necessary for the observance of the law which is the first duty of every Government to maintain. But I am sorry I am unable to support all the details of the Bill. No doubt it has been modified by the Select Committee in some of its important respects, but the provision to take security from all those who start new presses still finds a place in it. The object of the Bill as stated by the Hon'ble Sir Herbert Risley is to strengthen the measures which have hitherto been taken to deal with anarchy and sedition, and although I feel some doubt about it I sincerely hope that it will have the desired effect. I believe that the Bill when passed into law will be put into operation only on rare occasions, and that it will not permanently remain on the Statute-book. I also hope the Government will very soon be able to eradicate and suppress the present evils which have unfortunately made an appearance in this country. My Lord, with this hope and belief I beg to support the Bill."

The Hon'ble RAO BAHADUR R. N. MUDHOLKAR said: "My Lord, it is with feelings of profound sadness that I rise to take part in the necessary and important but none the less painful and depressing proceedings of to-day. It can be a matter of no pleasure to an Indian to survey and contemplate the present situation in the country and to have to admit that there has arisen therein a spirit, a propaganda, and a movement, which are as dangerous to the people as they are to the Government. Murders, organized dacoities, attempts at train-wrecking, bombs and throwing missiles at passing trains must in any society and under any circumstances be a source of grave uneasiness and anxiety to the Government and to the leaders of the community. But when these deeds are of a political character, are political in their origin and have a political aim, and further, when they come from persons of respectable descent, whose characters are in other respects unobjectionable, and who are not guided by any considerations of pecuniary gain or personal aggrandisement, who show a recklessness and daring not seen in the ordinary criminal, the matter is of infinitely graver import, rouses the most distressing apprehensions and well nigh produces despondency. To the Government this means that over and above the duty of keeping down the ordinary criminal element, which infests every society more or less, it is called upon to cope with a far more dangerous malady, the appearance of a spirit of revolt against it among sections of the community which ordinarily range themselves on the side of law and order, and are even now interested in the maintenance of law and order. The assassinations which began at Mozufferpore and culminated the other day in the foul murder in the High Court, the bombs, the train-wreckings, and some of the dacoities, are all, it must be admitted, connected—connected that is, not in the sense that they are organized by the same individuals or associated individuals, but that they are the products of the same set of doctrines, the same sentiments and views aiming at the same object. It is only natural that Government should insist upon putting these down. No sensible man can deny that it is necessary for Government to do so.

"The people of this country are equally, I would say even more, interested in the suppression and extermination of anarchy and terrorism. To those Indians who have been striving to obtain, by peaceful development, a higher political status, an assimilation, as much as circumstances would permit, of Indian citizenship to British citizenship, it means not only a serious immediate interference with their programme, but possibly its complete destruction and the impossibility of the efforts of the sober men of both the European and Indian communities that all should work for the good of India and the whole British Empire. We are fully alive to the fact that the withdrawal of England from India means rapine, bloodshed, misgovernment, anarchy—the destruction of everything that makes life worth living. Not only the progress but the very existence of Indian society is threatened by the anarchist propaganda.

"My Lord, what makes us most uneasy is that it is among the youth of the country, the members of the rising generation on whom all our hopes are centred and for whom we have to work and labour and strive, that this anti-social momement is spreading. The number affected till now is very small—might be called insignificant, a mere drop in the ocean of Indian humanity. But this drop—this microscopic minority—comes from among those who constitute the intellectual cream of the nation. The boys are mostly from the middle classes, who form the backbone of the community and represent its intellectual activity and moral worth. As I have

just said, my Lord, to us the rescue of these raw and impressionable minds from the dangerous propaganda of the revolutionary school is a most momentous matter.

"I must also with grief admit the existence of that equally dangerous but more insidious poison, the dissemination of sedition, the spread of the feelings of hatred of British rule and antipathy for the British people, by rousing and inflaming the prejudices and passions of the people. Criticism of the most unsparing type, keen, searching, vigorous, is wanted, as much in the interest of the Administration as of the people. But it cannot be tolerated that under the guise of criticism the very foundations of Government should be undermined and its smooth working endangered. This undermining process is, it must be admitted, carried on by some persons. Neither the spread of the revolutionary cult, nor the creation of an atmosphere of race hatred and enmity, will conduce to the good of the country. Nothing but disaster will flow from them. And they must be put down. The existing substantive law is comprehensive enough to secure punishment of anarchical methods and all forms of sedition. But its machinery is slow for times of great excitement, and what is more, it is not efficacious for preventive purposes, I am sure Hon'ble Members will admit that prevention is far better than punishment and that it is our duty to save these young men from moral poisoning.

"I have, therefore, with great regret and with very great reluctance, been forced to the conclusion that effective action of some such kind as that proposed by this Bill is imperatively needed at the present juncture. On the other hand, we ought not to lose sight of the fact that nowhere in the British Empire is a free Press more needed in the interest of the ruling Power itself than in India, and that the proposed legislation is likely to seriously interfere with the free expression of opinion. These are considerations which cannot be lightly treated, much less disregarded. But as there is a far greater danger, a far more serious evil actually existing, which, if not eradicated, means the disorganziation, possibly the disruption of our society, there is no option but to incur some risk of improper exercise of the power given by this law. My Lord, open opposition to this Bill and private misgivings about its essential features are far less intense than what they would have been at other times on account of the confidence and faith reposed in your Lordship's Government. All the same, there is considerable apprehension among the members of the educated community that the present measure, while it would be ineffectual to strike down anarchism, would curtail the liberty of the Press. There is some risk of this kind, I cannot deny. But, as I have said just now, in view of the far more serious actually existing evil, this risk must be faced. I only hope and trust that the extraordinary power which would be conferred by the law on the Local Government would not be lightly resorted to.

"There are one or two matters in regard to which I would at the proper time suggest modifications. But there is one question which might be called a question of principle which I would beg to submit here to the Council, and that is the period for which this law is to remain in operation.

"The evil which the Government and the Indian community are called upon to grapple with, is not an old and persistent one. It is of recent origin and is of the nature of a temporary aberration. For exceptional circumstances, exceptional remedies are required, and are permissible. But they should not, I submit, be continued a day longer than absolutely necessary. The control of the Press by the executive and the exclusion of the jurisdiction of the ordinary Courts of Law are, nobody can deny, departures from the fixed principles and the well-settled policy of the British system of jurisprudence. They are, if I may say so, opposed to the very genesis of that jurisprudence, nay, to that of the British constitution itself. I earnestly ask the Council to consider the desirability of permanently substituting executive control for judicial remedies and excluding for all time to come the jurisdiction of the Courts of Law. I do not deny that exceptional times like the present may necessitate the adoption of a more summary procedure and sharper methods than what are suitable for ordinary times, just, as even in England, the suspension of the Habeas Corpus Act has been found necessary at times, or, as in ancient Rome, the Senate and the Comitia were superseded in times of danger by a Dictator. My Lord, we have the precedent of the Irish Crimes Act, and it can safely be followed. My exact proposals in this matter I shall at the due time lay before the Council.

"There are certain matters, having a bearing on the whole question, which I would beg Your Excellency and the Hon'ble Members of the Council to take into

consideration. While it is true that the spread of revolutionary doctrines and anarchical methods have made no slight progress during the last five years, and while the activity of a certain section of the Press in the dissemination of sedition has considerably increased during the same period, the general tension which existed in the years 1901 to 1905 or 1906 has been to some extent relieved. The hopelessness, the pessimism and bitterness born of deferred hopes and despair, the serious apprehensions as to whether the solemn pledges of Parliament and the promises given by Royal Proclamations may not be after all set aside, which then characterized the writings of even the moderate section of the Indian Press, have greatly disappeared under the influence of the wise, liberal and generous policy of Your Excellency's Government and the present Ministry. With particular acts and particular measures fault is no doubt found, and criticism is freely applied to them. But Your Lordship and Lord Morley have revived the buoyant faith in British justice, good faith and liberalism which had been rather rudely shaken during the five years which preceded Your Excellency's Viceroyalty. I ask permission to quote only one instance to show how great has been the lessening of this tension and how great is the confidence reposed by many typical educated Indians in Your Lordship and the present Secretary of State.

"The 'Indian Patriot,' of Madras, one of the ablest dailies conducted by Indians, said in a recent issue :—

> "'If Lord Minto now proposes a measure, the general predisposition will be in its favour; and this is due to the confidence which His Excellency has inspired in his sympathetic regard and solicitude for the people. He has acted throughout as though he were determined not to go beyond actual necessity in enacting new penal laws. And so far as there is actual necessity, there will be no disposition among reasonable people to oppose any reasonable proposal. It will be widely acknowledged that if the Government are now obliged to introduce more repressive measures, the fault is not theirs altogether. If the crimes that had occurred were not repeated as they have been, as the Viceroy himself said, he would have let bygones be bygones. But in the face of the further occurrences of the most diabolical and the most dastardly crimes, such an attitude is impossible. Nobody can expect Government merely to look on when crimes are repeatedly perpetrated. If they do so, they will justly deserve the blame for inattention to their grave responsibilities. But they have also to see that there are people interested in suppressing the Indian Press, and to them, almost anything is good enough justification for such suppression. The public in India are bound to take a just view of both aspects, the aspect which faces Government and the aspect which appeals to us, and to reconcile both as best we can, always recognizing the imperative necessity of breaking the power of the anarchical gang.'

"I can quote passage after passage from newspapers and periodicals published in the different provinces to show how in spite of the exacerbation in certain quarters the general situation is more satisfactory than it was three or four years ago. My Lord, distrust in Government, antagonism to it, or cantankerousness towards individual officers, is not the normal attitude of the educated Indians. And just as the general sullen discontent and dissatisfaction which filled the air three years ago have appreciably diminished under the influence of the policy which dictated the new constitutional reforms, may we not hope that a large number of those now writing or speaking with unjustifiable violence, will return to sobriety and reason, if, along with firm measures adopted to repress sedition, action is taken to modify those measures which have caused popular dissatisfaction or injuriously affected popular interests. A few reprobates may be incapable of being touched by kindness or generosity, but the majority of those who have strayed away from the path of duty, wisdom, and propriety are not, I firmly believe, my Lord, beyond redemption, if conciliation is joined to firmness."

The Hon'ble Sir VITHALDAS D. THACKERSEY said : "I am coming from a part of the country which is engaged in industrial pursuits and belong to a community which is not usually engaged in political agitation. At the same time we all consider the liberty of the Press to be very sacred, and appreciate the great advantages of a free Press in a country like India. At the same time we cannot shut our eyes to the exigencies of the present situation. During the short time that I was in Bombay, after the first meeting of the Council, when an indication was given in your Lordship's speech of some such measure to be brought before this Council, I

took special care to gather the opinions of several leading men in Bombay and Baroda; and I must say that all of them admitted with regret that after the mad acts of our own anarchists, every well-wisher of the country and the supporter of law and order has no other course open to him but to strengthen the hands of the Executive Government to wipe out the poison which is being disseminated broadcast. At the same time there was a general feeling that in any measure that may be brought forward care should be taken to protect the innocent. On going carefully through the Bill it cannot be denied that when extraordinary powers are proposed to be given to the Local Government, every care seems to have been taken to secure full justice to the aggrieved party by an appeal to the highest judicial tribunal in the land.

"My Lord, there are, however, one or two points which I should like the Council to consider. The Government have properly excluded the present keepers of printing-presses and the present publishers of newspapers from the liability of depositing security: and I think that that principle should be further extended to all new concerns. We have to be careful that no action of ours should entail hardship upon the growth of harmless small presses though conducted by the poor but for their honest means of livelihood. The other direction in which I should like the Bill to be modified relates to giving an opportunity to the accused to submit an explanation before any judgment is passed against him. Circumstances may arise where a satisfactory explanation may be forthcoming and an unnecessary and unpleasant action may be avoided. If the present distinction between the existing and the future presses is to be retained, I think explanations should be added to Sections 3 and 8 that a mere change of a keeper of an existing printing-press or publisher of an existing newspaper, owing to death or retirement, will not count as a new registration under this Act, provided no offence has been committed by him. Unless such explanation is added, in course of time the keepers of the existing printing-presses and the publishers of newspapers shall have to deposit security, and I may say that in that eventuality it will entail a great hardship upon many honest pressmen of small means. With these objects in view, I have given notice of certain amendments which I will move at the proper time. As I have said in the beginning of my speech, exceptional circumstances have arisen, and the Council should with a full heart support the Government to meet the situation. But, at the same time, in our anxiety to remove the evil, we should not lose sight of the possible hardship our action may inflict upon honest people whom it is not the desire of Government or this Council to punish."

The Hon'ble Mr. ABDUL MAJID said: "My Lord, I rise to support this Bill. It is said that this Bill is exceptional; but, my Lord, the circumstances are exceptional at the present time also. My opinion, and my humble opinion, my Lord, is that by passing this Bill no doubt an effective control would be had over the Press; but the real question is whether the real evil will be touched. The real evil is the spread of the poison of anarchism among the people of this country, and, my Lord, I submit that some measures should be devised to uproot that poison from the soil of India. My Lord, there should be an effective control over the Press; but at the same time there will be this difficulty. At the present time we only know the ideas current in this country through the medium of the Press; but when such an effective control of the Press will be held by the Executive, is it not possible that at the same time these feelings will go underground and the Government will have to be vigilant, and they will at the same time have to be more cautious, in order to find this underground current of ideas? However, my Lord, these are matters which Government know much better than we who are in this Council to-day, and we ought to support every reasonable measure which the Government think necessary in order to meet the present circumstances. If this is the idea of Government, that the provisions made in this Bill are sufficient to stop the spread of anarchical ideas among the people, then I for one will give it my full support.

"Now, my Lord, coming to the Bill itself, any impartial observer will see that no doubt there are changes in the Bill, and that a good deal of power is going to be given to the Executive; but it seems to me that the Bill has got safeguards, and such safeguards which in my humble opinion will save the innocent quite well. We have got this much in the Bill that if any action is taken by the Local Government and anybody is aggrieved by it, he can go to the highest tribunal and have the matter settled and decided and tried by the highest. What better safeguard do you require than that? My Lord, it is said that the Bill will be a sort of check on the liberty of the Press; but I think that, instead of being a check on the liberty of the Press, it

will be a sort of assistance to those who want and a sort of lesson to those who are in duty bound to keep the dignity of the Press. It is the duty of all to support loyalty. It is those who do not realize their position, that write things which are disloyal, things which may cause disaffection, things which may cause the spread of disloyalty among the people of this country. It is said at the same time that the objects of this Bill can be secured by recourse to the provisions of certain old Acts; but it is well known that when we come to a judicial trial, things are done there, things are put there publicly, which, instead of stopping, spread the same ideas all over the country. I think that the summary remedy provided in the Bill is much better than the cumbrous machinery of a judicial trial. My lord, with these few remarks I support this Bill."

The Hon'ble BABU BHUPENDRA NATH BASU said: "My Lord, in rising to address the Council on this occasion, I must say I feel no small amount of hesitation. The outrages that have tarnished the fair fame of the country for the last two years have made our task, the task of those who seek for ordered progress and constitutional reform, one of extreme difficulty and of some danger. I do not fear the danger, but I feel the difficulty. I cannot escape the sense of shame and the weight of sorrow. Those misguided youths who have belied the teachings and traditions of the Hindu religion, who have disregarded the dictates of humanity and transgressed the bounds of reason, they little know what immense harm they have done to the cause of their country and how heavily we are handicapped to-day in our work. I feel that in the present crisis, with the memory of recent outrages in our mind, the Government may take whatever powers it pleases. The bare narrative of the crimes with which the Hon'ble mover of the Bill has contented himself is enough to call for a strong and stern remedy. That a remedy must be found and rigorously applied for this new evil in Indian life, we are all agreed. But, my Lord, the question is, does the remedy lie in the measure before us to-day? I shall assume for the purpose of my argument that there is throughout the Indian Press such a spirit of hostility to Government that the whole Press must be put under the control of a special law: I shall assume for the moment that the Press is silenced or banished: I shall assume that the English rulers of India succeed in effectually stifling her voice. What then? Will it stop the lawlessness, the violence which we all condemn and deplore? If it did, though repulsive to my instincts as a British subject, even though born under an Eastern sky, I would welcome it with all its drawbacks. My Lord, the history of other countries where the experiment has been tried of keeping the Press under severe control ought to serve us as a guide. Notwithstanding the strictest censorship Russia has not been able to banish anarchy from her midst. The roots of anarchy go much deeper than the ephemeral pages of the periodical Press: the effusions in the Press are merely the foam on waters agitated by causes working far below the surface. The literature of the French Revolution was not its cause, but merely its accompaniment, its exponent if you will. I do not think, my Lord, the present law will protect us from the anarchical crimes with which we are threatened, nor will it stop the insidious work of those who are trying to sow the seeds of hostility against British rule in India. They work in the dark and away from the public gaze: they avoid meetings and are gathered to conspiracies by forces which a legislative enactment can hardly reach. The parasite which produces the fever in the blood must be killed: temporary makeshifts are of no use. My Lord, on an occasion like this it may be permissible to quote Bacon, the philosopher and man of the world combined. 'The surest way to prevent seditions is to take away the matter of them, which is of two kinds—much poverty and much discontentment.' My Hon'ble friends must have noticed that most of the youths who have committed the crimes had passed or left the stage of the student and were drifting on the uncertain currents of chance, to find some safe haven or refuge. We read, my Lord, from time to time accounts of young men committing suicide because unable to maintain themselves or their family: what inducement to them to cling to life? My Lord, this is neither the time nor the occasion to emphasize the fact that there is a great deal of discontent in the country, but it cannot be overlooked. During the years preceding your Lordship's administration, an amount of irritation was created, the like of which it would be hard to recall in the history of India. The people were treated with contempt and their aspirations with ridicule: to these must be added the aloofness of the bureaucracy, its assumption of superiority and its indifferent disregard of Indian sentiment. The middle classes felt most severely the weight of the iron hand. New aspirations had been

aroused. Japan had made a triumphant vindication of the honour of the East and shown the capabilities of Eastern races. Persia and Turkey had already shown signs of reviving life, and China was rousing herself from the slumber of ages. In India things seemed dark, and for the moment people despaired. Young men who had travelled to Europe, America, and Japan came back filled with new ideas. Without experience of the conditions of the Indian polity, they cut themselves away from the recognised leaders of Indian thought and formed organizations of their own: to these they were able to inveigle boys and youths who were brought up in high ideals of social life, permeated by the asceticism and purity which characterize the middle classes of India: with nothing to do and nothing to lose, except a life which to them was of not much value, they have fallen easy victims. They have taken to a life which is cut off from the world: they have taken to studies, which are not of the mundane and have been worked up to a state of ecstatic fanaticism. They are not affected by what the world says, by what the newspapers say: they have their own teachers, who give them eclectic instruction which they seem to follow blindly, and the proposed legislation cannot reach them. Apart from the ineffectiveness of the proposed remedy, its drawbacks if not dangers, are very great. I take it from the assurance given by the Hon'ble mover, from the general character of your Lordship's administration, that there is no intention to curb the legitimate liberty of the Press in India, no desire to check the growth of knowledge, no desire to circumscribe the expansion of the mind of India, and that on the contrary there is every desire to safeguard these great interests. My Lord, English rule in India would be intolerable alike to the Englishman and the Indian if India were kept only as a preserve for the middle classes of England, only as a hunting ground for the adventurer or as an untapped field for the capitalist. Englishmen at all times have recognized that England has a mission in India, the mission of elevating India from her present position and enabling her to take a place in the comity of nations. My Lord, these are not mere idle sentiments: a long series of distinguished Anglo-Indian administrators have fully recognised the responsibility and solemnity of the mission; our late Queen, who through a long and brilliant reign bound India with chains of love to the Throne of England, was its most eloquent exponent, and our gracious Sovereign, to whom India must be a living reality, has emphasized in his latest message to the Indian people and Princes this aspect of British rule in India: it is this aspect which has reconciled to foreign dominion the intellect and the military ardour of the Indian populations, and it would be a disaster indeed if anything were to obscure it. My Lord, I cannot conceal from myself the uneasy feeling that the Bill we are going to enact into law to-day will have this effect: it will in the first place levy a tax on knowledge: it must be known to the Hon'ble mover that most of our Pressmen are very poor, that many of the papers do not pay and the printing-presses hardly suffice for a bare livelihood for their proprietors; the exceptions are so very few indeed. This deposit in advance which the proposed law requires will render the expansion of presses in India a matter of very great difficulty. The proprietors of printing-presses in Bengal, many of whom I know, are mostly poor men and devoted to the cause of learning. My Lord, there are many and striking differences in the ideals of life between the East and the West. One is that in the East, wealth has never been looked upon as the criterion either of gentility or respectability. Poverty in India has never been looked upon as a crime, for a man who can afford to be wealthy, it is an honour to be poor: this class of press proprietors will be gone: the cost of publication will increase, cheap school books, cheap periodicals and literature will go, and the progressive diffusion of knowledge will suffer a severe set back: this will be due not only to the inability to provide a deposit which may amount to Rs. 5,000 for the printer and the publisher, but also to the apprehension that if the deposit can be scraped through, it is liable to be forfeited at any time. My Lord, the Hon'ble mover said that the existing presses will not suffer, will not be called upon to make the deposit unless they offend. My Lord, who is to require the security to be given? The Local Government: the examples in which a newspaper may offend have been given by the Hon'ble Home Member in his introductory speech: some of the allegations in newspapers and political writings which he finds fault with and on which in some degree he bases the present measure are as follows:—I quote his own words: 'the Government drains the country of its wealth, it has impoverished the people and brought about famines on a scale and with a frequency unknown before: its railways and canals have brought malaria, it has deprived the Indian

artisan of his trade, it allows Indians to be ill-treated in the colonies, it levies heavy taxes and spends them on the army,' and so on. My Lord, each and every one of these statements has been made by distinguished Anglo-Indians and Indians whose loyalty is unquestioned. I do not seek on this occasion to justify or refute them. The famous expression 'bleeding India to death' was Lord Salisbury's. Commissions appointed by the Indian Government have expressed the opinion that malaria has followed in the wake of the railways and canals. An English historian of no mean repute has shown how the industries of India were ruined by legislation in England, and even now at the bidding of Manchester we are levying countervailing duties on our own manufactures. Lord Ampthill, who once held the office which your Lordship is occupying to-day, has pleaded in language of eloquent pathos for the Indian in South Africa. If the statements in the Indian Press summarized by the Hon'ble mover justify the introduction of this measure, they will also justify the taking of security from papers already in existence. No newspaper dealing with politics will escape, no press which publishes books on economics will escape, no public man, whether he was the late Marquis of Salisbury or that aged and veteran servant of India, Dadabhoy Naoriji, whom Indian rulers delight to honour, would escape, and I am afraid to think whether Lord Morley himself would be able to avoid the operation of the law. My Lord, my Hon'ble friend has referred to the Press legislation of 1878 and to the speech of Sir Ashley Eden which had preceded that unfortunate enactment. My Lord, I have not seen the extracts on which Sir Ashley Eden based his animadversions on the Vernacular Press. And my testimony, even if I had seen them, would not much avail. I shall take the liberty to quote Mr. Gladstone to show that those extracts were not so dangerous after all. Mr. Gladstone said in the House of Commons: 'they (the people of India) have or think they have plenty of causes of complaint. I am sorry to say I regard this Press Act as one of the most salient among them: but as I observe most of all from reading extracts sent home in order to make a case for the Act, all these complaints in India appear to me to be particular complaints. They complain of the errors of Government just as we complain of them in this country.' Yet on the strength of these extracts the Government here passed the Press Act of 1878, and the statements of officials then made based on these extracts have been dug up from their grave after the lapse of thirty years in support of the present measure. My Lord, this shows the danger to which the Indian Press will be exposed under the new law. If a man with the breadth of view and wide culture of the Hon'ble mover, a profound student and scholar, can take exception to the Press on grounds like these, what chance is there for the Press when the Secretary of a Local Government in times of panic, in the hurry of multifarious duties, has to decide the fate of a journal submitted as offending by the Magistrate of the district? The result will be that at no distant date most, if not all, Indian presses will have to furnish security or go; and knowing the conditions of my country as I do, I feel certain that they will go, security or no security. My Lord, the law indeed proposes to provide a safeguard; but what is the value of that safeguard after all? How many press proprietors in India will be able to afford the expense? Very few indeed. How many newspapers will be able to stand extinction for the period for which it may remain suspended? I shall be surprised if any will stand it. Therefore I said, my Lord, that the effect of the legislation will be to enhance the cost of knowledge, to restrict its growth, to narrow its sphere and so extinguish the indigenous newspaper Press of India; the result will be disastrous. My Lord, I will take the liberty to quote from the memorable reply which Sir Charles Metcalfe, the liberator of the Indian Press, gave to a deputation which waited upon him: 'It rests with them to show that the communication of knowledge is a curse and not a benefit and that the essence of good government is to cover the land with darkness: for otherwise it must be admitted to be one of the most imperative duties of a Government to confer the incalculable blessing of knowledge on the people, and by what means more effectively can this be done than by the unrestrained liberty of publication and by the stimulus which it gives to the powers of the mind?' Continuing, he said, 'if their argument be true, the spread of knowledge may eventually be fatal to our rule in India. I close with them on that point, and maintain that whatever may be the consequence it is our duty to communicate the benefits of knowledge. If India could only be preserved as a part of the British Empire by keeping its inhabitants in a state of ignorance, our domination would be a curse to the country and ought

to cease.' My Lord, I am quite sure your Lordship, who has throughout your rule shown a generous appreciation of the problems of Indian administration, does not want to go back upon these principles. The statesman who is at the helm of Indian affairs in England will not go back upon them, and I feel confident that your Lordship has given sanction to the present legislation in the view that it will not have the effect of stifling the Indian Press. I have ventured to show that that view is not correct. My Lord, I do not know what are the actual materials which my Hon'ble friend has got before him. I frankly admit that the writings of a certain section of the Press require to be checked; they have mistaken license for liberty. I believe, however, that their number is not so large as to call for a special legislation in which the loyal but the outspoken section of the Press will be equally involved. My Lord, I have before me statistics for the year 1902: the number of registered printing-presses was 2,192, the number of newspapers 708, the number of periodicals 575, the number of books published in English 312, in Indian languages 7,081; these numbers must have considerably increased since, but there were only 47 cases in which it was thought fit to take proceedings, all of which succeeded. The " Sandhya " has gone, the " Jugantar " has gone, the " Bande Mataram " has gone, and others which offended against the law have also gone. If we have got plenary powers under the law as it stands, and we have the powers of confiscating the Press, of having the offenders tried by special tribunals, powers which have never been thwarted, why have a measure which may have an effect, and to my thinking will certainly have the effect, which is not desirable? If it is the publicity of a trial, take steps to avoid publicity: if it is the delay in the proceedings, take steps to curtail it. My Lord, what we complain of is that the Bill provides punishment before trial, which even the Austrian Government does not; a temporary censorship would be better, because, while it will emasculate, it will not extinguish the Press; it will stifle criticism of Government, but not put a tax on knowledge. My Lord, it would be impertinent in me to dwell on the advantages of a free Press, specially to a Government situated as the British Government is in India; it is an institution with which the greatest names in England are associated, it is the foundation of its civic liberty. Consecrated by the impassioned and matchless eloquence of Milton and vindicated by the writings of Burke and Mill, its growth has been unimpaired in England for the last 300 years. While in India for 70 years or more we have enjoyed its blessings and knowledge has grown more and more. My Lord, I have shown that the present situation, the anarchical movement, is not owing to the license of a particular section of the Press. I do not deny that such license has been harmful and must be put down, but I maintain that the existing laws are sufficient; if not, let us strengthen them: but, My Lord, I cannot agree that a measure should be passed which to my mind threatened the very existence of an indigenous and free Press in India, which will choke the springs of knowledge, which will bar the road to progress and which will not after all secure the object in view. The Press may go, but will that stop the mischief? I shall take the liberty to quote Lord Morley himself. In December, 1908, from his place in the House of Lords, he said: ' supposing you abolish freedom of the Press or suspend it, that will not end the business. You will have to shut up schools and colleges, for what would be the use of suppressing newspapers if you do not shut the schools and colleges? Nor will that be all. You will have to stop the printing of unlicensed books. The possession of a copy of Milton or Burke or Macaulay or of Bright's speeches, and all the flashing array of writers and orators who are the glory of our grand, our noble English tongue, the possession of one of these books will on this peculiar and puerile notion of government be like the possession of a bomb, and we shall have to direct the passing of an Explosive Books Act. All this and its various sequels and complements make a policy if you please. But after such a policy had produced a mute, sullen, muzzled, lifeless India, we could hardly call it, as we do now, the brightest jewel in the Imperial Crown.'

" My Lord, it will be impossible to touch the picture drawn with such master strokes without spoiling its effect. To the British nation British rule in India may be a source of glory, of prestige, of rank in the scale of nations: to us it is our very life, and what is dearer than life? To us it is our only hope, our only hope of a brighter future for our country: it is to us the rescuing hand held out to a drowning man in the darkness of the night. To us it means much more than Empire, much more than glory and fame and prestige: and because we want that this rule should continue on an ever-widening base, welding the peoples of India

into a nation, justly proud of its comradeship with England, possessing common rights, common privileges and sharing common dangers, that I venture to ask that this Bill may not pass into law. Your Lordship has inaugurated a noble scheme of reform; let it have a fair chance, let it bring peace to my distracted country; and in the meantime we shall support your Lordship's Government in any measure it may bring forward to punish but not to anticipate the guilty."

The Hon'ble Mr. LYON said: "My Lord, I am sure that many of those who support the present Bill will be fully prepared to sympathise with those Hon'ble Members who have expressed regret that the first measure passed in this new Council should affect the public Press. Indeed, it is probable that the sentiments that have been expressed in this connection would find many echoes in any assembly of His Majesty's subjects in India. But at the same time it seems essential that in the circumstances in which we find ourselves placed we should as an assembly of practical men face the problems with which we have to deal and descend from the heights to which some Hon'ble Members would wish to lead us. We have no hope that by this measure we shall extirpate anarchy, but we do believe that we shall strike at treason in its beginnings by trying to control seditious teachings in the Press.

"I think, my Lord, that many others must have waited, as I did, in the expectation that in the speech of the last Hon'ble Member who spoke, and in some of the other speeches, we should have found some acknowledgment of the firm and unwavering adherence to the great principle of the liberty of the Press which has been exhibited by the Government of India during the past three years, and some indication that the fact had been realised that, in spite of great provocation and serious abuse of the privileges, which that liberty carries with it, any curtailment of those privileges had been steadily refused. But although this outstanding factor in the present position has been ignored, and although the Government's previous record appears to have been forgotten, I think that there is ample evidence in this Bill of the scrupulous care with which these privileges have been regarded by Government and of the reverence for the principle of the liberty of the Press which it has shown. Since the Bill has been introduced it has been examined by the public Press, and it appears to have satisfied the most jealous scruples of liberal critics after a most thorough examination. Indeed, I think it would be difficult to find a measure which would combine any effective power to combat the present evils with such absolute security for honest and temperate critics. The Bill is in all essentials entirely preventive. It warns; it takes security; it does almost everything it can to prevent the commission and repetition of offences, before it raises its hand to strike. In the first place it asks for security from those who wish to start a new press. The privileges of which I spoke just now carry with them responsibilities which have hitherto been ignored. Persons who wield them should have some stake in the country, something to lose, and, in view of the present exceptional circumstances, it seems hardly too much to ask that they should give some security for good behaviour. There is no need to prove in this Council the necessity for such a provision, or to quote any of those articles which have given rise to this legislation. The methods of distilling the poison of race hatred are well known. These privileges have been used to blackmail the wealthy, to intimidate the weak, to extort subscriptions from zamindars and to inforce the boycott by means of social persecution, and the cruelty of that social persecution is not always present to those who have received training in Western methods. Ample security is given in the Bill for small presses which are to be started for literary, educational or religious purposes, and I doubt whether any Magistrate would be restrained in the exercise of his powers if he grants exemptions to such laudable undertakings. But Government ask that the responsibility attaching to public journalism should be enforced when it is employed to generate sedition, and I venture to suggest that the old theory of the public Press as a safety valve is no longer tenable in India. The papers with which we have to deal too often generate steam which can only find an escaping valve in crime.

"The second object of the Bill is to meet offences in the large majority of cases with a warning and the taking of security. Surely these are lenient methods of dealing with such difficulties. Jurisdiction to deal with such cases is given to no less an authority than the Local Government, and the Local Government is answerable to the Government of India, and also I would note to its own Legislative Council; and I do not think that those Hon'ble Members who would deprecate any importance being attached to the control of the Legislative Council can be counted

to be in the right, as all who have studied the methods of Parliament in England know what control, what pressure, what influence can be exercised by a reasonable and reasoning minority, however small, in that Parliament.

"As for the offences which are made penal under this Bill, they were carefully hedged round from the very commencement by the carefully drawn section which deals with them, and they have come back to us from the Select Committee reduced in number and even more strictly defined. Read with the explanations which accompany them, I do not believe that there is one which Hon'ble Members will not hold sufficient to disqualify a printer or a publisher from his work, and it will be observed that it is only the repetition of such an offence which will find punishment under this Bill. In such circumstances, my Lord, I believe we shall be wise if we discount all the gloomy forebodings as to the results of this legislation which we have just now heard and if we look forward to a future when the youths of this country shall have been protected from the greatest danger that now assails their manhood, and when a healthier and more sane public opinion shall have rendered inoperative even the mild precautionary provisions of the present Bill."

The Hon'ble Mr. SHAMSUL HUDA said: "My Lord, it is not without feelings of considerable sorrow and regret that I feel myself constrained to support the principle and policy of this Bill. I realise, my Lord, that for every man who deserves the treatment which the Bill accords to him there will be ten or more who do not deserve it. I also realise that the Bill is likely to render editors of newspapers a little nervous and timid and thereby prevent to a certain extent that fair and free discussion of grievances which has done so much to improve the administration of this country. Whilst, however, realising all these difficulties, I feel at the same time that the circumstances at the present moment are exceptional and deserve exceptional treatment. If I felt, my Lord, that there is anything like widespread discontent among the masses of the people, I would have said that repressive measures are not suitable because they would only aggravate the feeling; but I feel that the dastardly crimes which have sent a thrill of horror through the length and breadth of this country are not sympathised with by the people and that those who are guilty of these crimes are irreconcilables whom no concession will reconcile. My Lord, although I do not think that the measure which is before us will prove an efficient check to the spread of sedition, the consideration that presses me most is this, that, if those who are responsible for the peace and good government of this country think that they require a certain weapon to cope with the evil, it would be a serious responsibility for the non-official members of this Council to refuse to them that weapon. It is for this reason, and for this reason alone, that I support the Bill."

The Hon'ble Mr. KENRICK, K.C., said: "My Lord, it was not my intention to interpose in this debate at this stage at all; my views have already been expressed before the Select Committee, which it was my privilege to serve on. However, the utterances of the Hon'ble Mr. Bhupendra Nath Basu have drawn my fire, and I desire, my Lord, to answer very briefly some of the arguments which were put forward by the Hon'ble Member, which I venture to describe as fallacious, as specious, and as dangerous. In the first place, the Hon'ble Member referred us to the teachings of history; he instanced the case of Japan, he instanced Turkey and Persia. Well, my Lord, one moment's consideration will disclose the fallacy of drawing any argument from the historical view of things taken in Japan; that is in no sense applicable to the present state here. The movement in Japan, my Lord, as is perfectly well known, was not in itself a movement which in any way involved the subversion of the existing Government, and that, my Lord, is the object which is indoctrinated by the seditious portion of the Press, which it is the aim of the present Bill to control. Turkey, again, was aiming, as we all know, at securing an advancement on the path of progress by the substitution of a more modern constitution for the old ideas which had previously guided her and which were obviously crude and unsuitable to modern demands. Practically, therefore, there is no argument to be drawn from Turkey, Persia, or Japan as regards the desirability or the reverse of the present measure. This Bill stands on its own footing: it has to meet circumstances which have arisen in this country. The Hon'ble Member said, and advanced it as an argument, that it will not destroy anarchy and that it will not prevent outrages. But, my Lord, is that any argument at all? Assuming that it will not—and, unfortunately most of us suppose that it will not—destroy the existing anarchical sentiment that prevails in a portion of the community, is that any reason at all for not taking such firm measures as we can take to meet an undoubted

evil? The Hon'ble Member said that the Press is not the sole cause of this. We may assume that it is not the sole cause of the present state of things, but it is a very marked contributory cause, a cause that has undoubtedly contributed to the present state of things, and, as such, it is necessary to control it. The Hon'ble Member spoke as though he were unaware of the torrent of anarchical literature which has unfortunately been flowing in this country during the past few years. He cited Mr. Gladstone's views as to the state of the Press in India at the time when Mr. Gladstone was speaking. That has no application to the present circumstances at all. It is obvious that Mr. Gladstone had not before him anything like the class of literature which too unfortunately is so prevalent at the present time in this country and has been for many years past. The Hon'ble Member seriously asked us not to 'choke the springs of knowledge'—as though, indeed, this measure, this moderately drawn measure, moderately drawn having regard to the circumstances at the present time,—could in any way choke the springs of knowledge. That is a misconception of the object and purpose of the measure which is at present under consideration. There is no desire, as was pointed out by the Hon'ble Member who introduced this Bill, to choke the springs of knowledge. On the contrary, there is the freest possible room for criticism in every form. Fair and proper criticism will not come within the scope of this measure. But though the measure, as I submit, in no way tends even in the slightest degree to choke the springs of knowledge, as the Hon'ble Member said it would do, it may, and I trust it will tend towards choking the malignant attacks upon the Government which have been only too frequent in recent years.

"The Hon'ble Member spoke of the protection of the Press. He said that the Press must be protected. True: but, my Lord, how about the protection of the public, how about the protection of the servants of the public, too many of whom have unfortunately fallen victims to seditious doctrines that have been spread by a certain section of the Press? It is very well to sympathise with the Press as a whole, but we must have sympathy and a wider sympathy for the victims of the deadly teachings of the Press.

"The Hon'ble Member referred to extracts from the Press, and spoke as though they were very trivial and very unimportant in their bearings. As a matter of fact there is not one or two or a dozen, but hundreds or thousands of extracts from the newspaper Press of the last few years and which unfortunately is still continuing—extracts which, if I were to read here, would without any doubt be capable of one construction only, viz., the most direct incitements to murder, direct incitements to rebellion and to subversion of British rule. And at the very least, a large number of them directly use such expressions as must have the inevitable result of inculcating the most deadly hatred of British rule and of British officials. It is to meet that continuous current which has been flowing, and is still flowing, that the present measure has been introduced.

"The Hon'ble Member, if I understood him aright, demurred to the representations made by the Hon'ble Sir Herbert Risley when he was introducing this Bill. Sir Herbert Risley stated, if I may say so, in the most moderate language, certain of the evils which the Press undoubtedly had been preaching and the doctrines that it had been disseminating which are subversive of all lawful authority. Indeed I was struck by the extreme moderation of Sir Herbert Risley in making those references. He instanced a few of the evils which the Press were and still are continually preaching, but he by no means took as illustrations the most violent of the teachings which have been and still are being continually published and disseminated. One might point to thousands of extracts each one of which breathes the most deadly hatred of British rule. Some of them—I am referring for the moment to certain newspapers which have come under my notice but which are happily suppressed—directly incited, and in no unequivocal language, to the preparation of explosive bombs which they directed should be kept in every house. That is the sort of literature there was in the past. If at the present moment the utterances of the Press are less directly deadly in their nature, it is undoubtedly due to prosecutions which have put fear into that section of the Press. At the same time these prosecutions have been found ineffective to stamp out the continual current of abuse and calumny which the Press (a certain section of the Press and the one at which the Bill is aimed) still throw at the British Government and at British rule. If I were to read extracts that I have at my disposal it would make the blood of every loyal British subject boil with indignation.

"Then, said the Hon'ble Member, 'do not punish before you prove the indi-

vidual guilty.' My Lord, the whole scope of this measure is—and this cannot be too strongly emphasized—preventive, and not punitive. It is to prevent the continuance and the recurrence of these hideous attacks that have been so violently made and which are obviously so subversive of all lawful authority in this country, that this measure is being introduced.

" And, lastly, the Hon'ble Member referred to the freedom of the Press. There is no one here who does not admire that elementary principle of the British constitution, the freedom of the Press. But this is very often misunderstood. The freedom of the Press means its freedom within the limits imposed by the law, and those limits are continually being exceeded by a certain section of the Press in this country. The fullest criticism is permitted by the law : the fullest criticism is still permitted by this measure, and will in no way be prejudiced. There is the utmost scope for the advancement of every legitimate argument, and the only class of argument which is cut out by the measure is that class of argument which it is desired effectively to stamp out, viz., malignant misrepresentations and statements involving assertions of corrupt methods in the Government and in the officers of Government. Such statements cannot and should not be permitted, and it is the aim of the measure which is before this Council to stamp out, not free criticism, but the abuse of free criticism and the attribution to Government and to its officers of malignant and corrupt methods. And that being so, in the peculiar circumstances of the times, one must feel that it is a measure that will receive the support of every loyal subject, and that it in no way militates against the principles of the freedom and liberty of the Press."

The Hon'ble PANDIT MADAN MOHAN MALAVIYA said : " My Lord, it is perhaps an advantage that I rise to lay such views as I have on this Bill before the Council, after having had the benefit of listening to the many able speeches which have been delivered in connection with it. I regret, however, to say, my Lord, that having heard all those speeches, I am still unconvinced as to the necessity of this Bill or of dealing with it in the manner in which it is being dealt with. A great deal of regret has been expressed both in this Council and outside it that a measure of the extraordinary importance of this Bill should be dealt with in the hurry in which it is being dealt with. Reference has been made to the hurry in which the Vernacular Press Act was passed in 1878. My Lord, one mistake does not justify another. In the present instance, neither in the long and lucid speech of the Hon'ble mover of the Bill nor in the subsequent speeches that have been made has any explanation been offered as to why it is necessary to rush this measure as it is being rushed. My Lord, the great advantage which the Government has thought it necessary to secure to the public in connection with measures which are brought before the Legislative Council in giving publicity to them is that those who are interested in the measures should have the fullest opportunity of expressing their opinions regarding them and of submitting them to Your Excellency's Council in order that those opinions may be considered before deciding the final shape which the measures should take. As soon as this measure was introduced, it was referred to a Select Committee. The Select Committee have no doubt considered the Bill; but if there had been a general discussion in the Council of the principle of the Bill and the general lines of criticism had been known to the Committee, I am certain, my Lord, that it would have been a great advantage to the Select Committee in doing their work. I have received telegrams from my own province, from the President of the United Provinces Congress Committee, from the President of the People's Association at Lucknow, and from the Secretaries of the Mahajana Sabha at Madras asking me to lay them before the Select Committee and Your Excellency, and to urge that more time should be given for the consideration of the Bill. My Lord, it is not enough to say that the Bill has been published and that it has been before the public for three or four days. The measure being of the importance which it is, I submit that a great deal more time should have been given to the Press and the public to consider and to criticise the Bill particularly as no circumstance has been mentioned which could justify its being hurried through the Council.

" Now, my Lord, coming to the Bill itself, we are no doubt confronted by the outstanding fact, the unfortunate outstanding fact, that there have been certain anarchical crimes and outrages committed in this country. Every good man must deplore and detest these crimes. They are hateful in the sight of God and men, and they have been condemned all over the country in unmistakable language. If

it were shown that any particular measure was necessary to extirpate the germs of anarchical crimes, I am sure the whole country would rise as one man to support the measure, and to thank your Lordship's Government for introducing it. But it is evident from all the remarks that have been made both by official and non-official members that there is very little expectation entertained that this measure will really have any substantial effect upon anarchical crimes. I do not deny that it may check the distribution of the poisonous literature which some newspapers have been indulging in; but that it will have any effect upon those men who have gone into the wicked camp of the anarchists or terrorists, I do not think many members entertain even the hope that it will achieve that result. That being so, my Lord, we have to consider what are the circumstances which justify the passing of such a measure as the one before us. The whole country, as I say, all decent people, are united, are of one mind with the Government in desiring that whatever measure may be necessary for the purpose of putting down anarchical crime should be adopted. But it must be shown that a particular measure is calculated to secure that object. The Hon'ble mover of the Bill said in his opening speech that he had to justify the Bill before the Council, and to show why and how the laws which exist already are not sufficient to deal with the situation. My Lord, he referred to the murderous conspiracy which has come into existence, and he said that the outrages which that conspiracy had committed or attempted to commit were the direct result of the teachings of certain journals. The Hon'ble the Advocate-General also, in the speech with which he has just now favoured us, spoke of the stream of poisonous sedition which has been passing through several of these journals. My Lord, the picture which the Hon'ble mover of the Bill has drawn of the existing situation would suggest a question in many minds as to whether there was any law in the land which could deal effectively or at all with the poison of seditious literature which was passing through the papers. One would imagine that there was no law which could deal with the abuse of the liberty of the Press as it was described in the speech of the Hon'ble mover of the Bill. But, my Lord, as the Council knows, there is already a great deal of legislation existing in our Statute-book which seeks to deal and which does deal with all abuses of that liberty. The Hon'ble Member began by saying that it was his duty to show why the Government could not be content to rely on the ordinary criminal law. He ended by merely asserting, not proving, that that law was insufficient. I am sorry I did not find any explanation in the speech of the Hon'ble Member as to why these provisions had been found to be not sufficient or wherein they had been found to be insufficient. The Hon'ble Sir Harold Stuart has tried to make up for the omission and has said that section 108 of the Criminal Procedure Code has been found to be a useless weapon. He said that there had been three papers which had been convicted twice, two papers which had been convicted three times, and one which had been convicted six times. My Lord, a repetition of an offence by six papers out of a total of, I believe, nearly 800 papers in the country, does not show that there is not sufficient provision in the existing law to deal with cases of sedition or attempts to promote sedition. The situation therefore demands that before we give our assent to a new and stringent measure being placed on the Statute Book, the existing provisions of the law should be dispassionately examined.

Now, my Lord, there are two matters to which I would especially invite attention. The present Bill, as the Council has noted, defines what would be regarded as prohibited matter, and the publication of which would expose a man to the penalties or to the consequences which are described in the Bill. Among the matters so prohibited, as the Hon'ble mover of the Bill pointed out in his speech, are certain offences which are already provided for in existing Codes. Take, for instance, those mentioned in clause (*a*) of section 4 of the Bill, to incite to murder or to any offence under the Explosive Substances Act, 1908, or to any act of violence; these are fully provided for by Act VII. of 1908—an Act for the prevention of incitements to murder and to other offences in newspapers. The Hon'ble mover said that it was thought advisable to include them in this Bill in order that the Government may, if necessary, take action of a less severe kind than that prescribed by the Act of 1908. I submit, my Lord, that the outrages that have been committed of late, would make one think that this was not the time when the Government would seek milder methods to deal with cases which fell within the purview of that Act. Clause (*b*) relates to the offence of seducing any officer, soldier or sailor in the Army or Navy of His Majesty from his allegiance or his duty. Section 131 of the Indian Penal Code already provides that any person who attempts to

do any of these acts shall be punished with transportation for life or with imprisonment which may extend to ten years and shall be liable to fine. Then, my Lord, the third clause incorporates the provisions of sections 124A and 153A with the addition of an offence against Native Princes or Chiefs. And the clause which seeks to protect judicial officers serving His Majesty from being maligned or unjustly attacked. These, my Lord, are the most important provisions of the Bill. And I beg to invite the Council's attention now to the provisions of section 108 of the Criminal Procedure Code. Under that section any person who disseminates either orally or in writing or attempts to disseminate or in any wise abets the dissemination of any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Penal Code, or any matter the publication of which is punishable under section 153 of the Indian Penal Code, or any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code, that section provides that if any editor or printer or publisher or proprietor of a newspaper shall be guilty of any of the offences specified there, the District Magistrate or the Chief Presidency Magistrate shall have the power, with the previous sanction of the Governor-General or of the Local Government, to call upon the person so offending to show cause why he should not be bound down with or without sureties to be of good behaviour for a certain period. I submit, my Lord, that this is a provision which should enable the Government to deal with cases of persons who disseminate seditious or other objectionable matter, who, that is to say, publish prohibited matter or such matter as the present Bill says will be prohibited matter. Then, again, as I have said before, there is the Newspapers (Incitements to Offences) Act. That Act was passed in 1908 after the writings of certain journals, to which the Hon'ble mover of the Bill I think referred, had led to the commission of some outrages. Now, my Lord, section 3 of that Act provides that where, upon an application made by order of or under authority from the Local Government, a Magistrate is of opinion that a newspaper contains any incitement to murder or to any offence under the Explosive Substances Act, 1908, or to any act of violence, such Magistrate may make a conditional order declaring the printing-press used, or intended to be used, for the purpose of printing or publishing such newspaper or found in or upon the premises where such newspaper is or at the time of the printing of the matter complained of was printed to be forfeited, and to make such a conditional order of forfeiture absolute unless the person concerned appears and shows good cause against it. These two sections, my Lord, give ample power under the existing law to the Government to deal effectively and speedily too with persons who abuse the liberty of the Press. It has not been shown in what respects these provisions are insufficient, and I submit that justification for introducing a new measure has not been established. It may be said, my Lord, that the procedure and punishment provided by section 108 are insufficient to deal with cases of persons who repeatedly commit the same offence. I am unable to understand why in such cases also a repeated application of the provisions of that section should not put an end to the evil activities of such persons. But assuming that it would not, I submit that the proper course would have been to ask for an amendment of that section in order to incorporate more penal provisions to effect the end which the Government has in view and not to introduce a new measure.

"If, my Lord, the necessity of a new Act has not been established, then I submit that the matter should end here. Assuming, however, that a real necessity has been felt for giving greater power to the Courts, assuming also that the course of amending the existing Acts has for any valid reason not commended itself to the Government, and the Government feel in all the circumstances of the case that a new Act should be passed, I should like then to hear some explanation as to why a great, a novel, and, I submit with great respect, a dangerous departure has been introduced into this Bill against the principle of all the existing enactments which the Government has passed during the last fifty years and more. My Lord, under the Criminal Procedure Code, once the sanction of the Governor-General or of the Local Government is obtained to proceed against any editor, printer, publisher or proprietor of a newspaper to require him to give security for good behaviour, the whole procedure which is regulated by the provisions of that Act is judicial, and the whole matter is left to be dealt with judicially by the Magistrate. So also in the case of the Newspapers Offences Act which deals with offences of a far more grave character. The Government passed that enactment less than two years ago and they considered it both just and wise to adhere to the principle of

leaving it to the Magistrate and the Courts established by the Government to decide what matter fell within the definition of sedition and what did not. I do not understand, my Lord, why this new departure should have been made in the present Bill by which, instead of leaving it to the Magistrate to decide what matter came within the definition of prohibited matter and what did not, the Local Government is empowered to take upon itself to decide what matter is seditious without giving an opportunity for hearing to the person against whom it may so decide. I submit, my Lord, that this is a departure which is not justified by the existing circumstances of the country. The crimes at the prevention of which the Newspapers Offences Act aims are, my Lord, more serious, are certainly not less serious, than the crimes which it may be hoped that the present Bill may tend to prevent. That being so, I submit that if the Legislature has thought it right to leave it to the Magistrate to decide whether a newspaper contained incriminating matter within the meaning of that Act, it should have been left also to the Magistrate to decide what matter came within the definition of prohibited matter under the proposed law. My Lord, the Bill raises 'a political question,' to quote the weighty words of Mr. Gladstone uttered in the House of Commons in connection with the Vernacular Press Act of 1878, 'of great importance, of the utmost delicacy, namely, whether it is wise for the Government to take into its own hands and out of the hands of the established legal jurisdiction the power of determining what writing is seditious and what is not.' In the course of the same debate Mr. Gladstone observed that 'the most unfortunate feature which the measure presents is the removal of Press prosecutions from the jurisdiction of the judicial establishments of the country in order that they may be dealt with as matters of executive discretion.' The Bill before us seeks to revive that feature of the Vernacular Press Act which was so justly condemned by Mr. Gladstone. My Lord, the argument that in taking proceedings against offending printers or publishers under the ordinary criminal law there would be a great deal of publicity given to the offence and that would be a public disadvantage, is not a new one. It had been urged to support the Press Act of 1878. Speaking in reference to that argument, Mr. Gladstone said 'The argument that is made for the abstraction of these matters from the Courts of justice is one which strikes at the root of our policy, and the best part of our policy, in India.' It is said 'oh no, we will not prosecute in the Court, for if we do that the prosecution will bring these men into popularity, and the mischief of the prosecution will be greater than that of submission to the evil.' My Lord, this argument has no greater force to-day than it had in 1878; and, I submit, it is not an argument which is worth considering in the face of the great danger involved in the departure which it is sought to make from the principle upon which the entire system of the administration of justice is built, and which the Government has followed throughout in enacting all its laws. That being so, I respectfully submit that if the Government feel that a new measure must be passed, this novel principle which has been introduced into the Bill should be eliminated, and power should be left to the Magistrate as in other enactments to deal according to law with what may be regarded as prohibited matter. There can be no possibility, my Lord, of the effect of this measure being weakened by adhering to the right principle: it will still be quite as potent for preventing mischief as the present measure can be. The sanction of the Local Government will yet be necessary before any action is initiated, but once the proceedings have been initiated the matter will be left to be dealt with by the Magistrate acting as a Judge, and any order that he may pass will rightly and properly go up to the High Court for revision or in appeal. I may say here that I do not see why an appeal should not be allowed from an order asking for a deposit of security as well as from an order for forfeiture of that security. If an order is made by the Magistrate of the district or the Chief Presidency Magistrate and it is taken up in revision or appeal before a High Court, there will be a greater assurance in the public mind that the merits of the order will receive due consideration, than, my Lord, human nature being what it is and the circumstances of the country being what they are, there would be when an order passed by the Local Government on the executive side will be brought up for revision before the High Court. So far then with regard to the necessity of the new measure and in regard to the new change of principle which it introduces. I submit, my Lord, that the necessity of it has not been proved, the justification not established.

"Let us now consider some other aspects of the Bill. The Hon'ble mover of the

Bill has stated the objects of the Bill to be somewhat larger. He has stated that the object of the Bill is 'to provide for the better control of the Press or to confine the Press—the whole Press, European and Indian, English and Vernacular—within the limits of legitimate discussion.' My Lord, that clear statement of the object clears the ground to a great extent for discussion. It naturally gives rise to the question whether the condition of our Press, European and Indian, English and Vernacular, in this country is such as to justify any legislation to keep it within the limits of legitimate discussion. My Lord, the Hon'ble mover of the Bill has given us a history of the liberty of the Press in this country. He has told us that during the last seventy years, with the exception of two short periods of one and three years respectively, the Press in India has been free; he has told us that these two periods were, one the short period in the dark days of the Mutiny, and the other the period of the Vernacular Press Act. My Lord, the Vernacular Press Act was repealed within three years, and action was taken under it only once. We can take it, then, that there was no necessity for Government to restrain the liberty of the Press in actual practice. Up to the year 1907, the Hon'ble mover of the Bill has said that there had been only sixteen Press prosecutions. My Lord, I ask the Hon'ble Member to say if in Austria, to which he referred, or in any other country to which he might refer, the Press has as a whole behaved better or been conducted more respectably than in India during the last seventy years. The remarks of the Hon'ble Member would lead one to think that the Press had been offending for a long time: he has spoken of the great forbearance which the Government exercised in dealing with the Press: he spoke of that forbearance as extreme: he said that some people thought it was excessive: and he complained that in spite of that much forbearance being shown, the Press did not mend its ways but went from bad to worse. My Lord, if the picture drawn by the Hon'ble Member were true, it would have cast a most serious reflection upon the Administration. If it were true, it would show that while the Administration saw that the Press was going steadily from bad to worse, it did not take any steps to check the evil course. But happily for the Press and for the Government, we have in the remarks quoted by my Hon'ble friend Mr. Dadabhoy the testimony of more than one very high official of Government that the Press of this country has as a whole behaved respectably and honourably and that it has given little ground for complaint. I will not quote, my Lord, what the Hon'ble Member may regard as ancient history. Sir Herbert Risley gave us the history of the Press up to the year 1907, and he then drew attention to the resolution which Your Excellency's Government was pleased to issue in that year for the better control of newspapers. In that resolution it was stated that 'the Governor-General in Council has no desire whatever to restrain the legitimate liberty of the Press to criticise the actions of the Government, and he would be most reluctant to curtail the freedom of the many well-conducted papers because of the misbehaviour of a few disloyal journals.' My Lord, barely two years have passed since your Lordship was pleased to graciously acknowledge that the many papers in this country were well conducted and that the journals which were disloyal were a few. I venture to say, my Lord, that that is the position even to-day. With the regrettable exception of a few papers in some parts of the country, the great bulk of them are still well conducted. If this is so, the case which my friend sought to make against a general restriction of the liberty which the Press has enjoyed, the case which he sought to make for taking legislative action to confine the whole Press within the limits of legitimate discussion, has not, I submit, been made out. Your Lordship will be pleased to remember that the last two years and a half have been a period of exception. Up to the beginning of the year 1907, or I will go back a little earlier, up to nearly the end of the year 1905, the Press generally behaved in an excellent manner, even in the province of Bengal. I do not think that there were many papers till then the conduct of which could be much complained of. My Lord, we all know then the unfortunate but momentous event which occurred about the end of 1905. We all know the act of violence, as many millions of people believe it, which was committed by Lord Curzon's Government in partitioning Bengal against the prayers and protests of the people. And it is from that time, my Lord, that the evils which we are now deploring, and which have led to several deplorable results, largely date their origin.

"My Lord, it was in 1906 that a certain portion of the Press assumed a tone of bitterness and even hostility which continued to grow also in 1907, but I submit, my Lord, that that evidenced abnormal condition. The causes of the change in the tone of the Press were discernible by everybody who cared to think about it. We

regret them, but we cannot overlook them. It was due to the cause to which I have referred and to the bad feelings which were excited in the year 1905 and in the succeeding year by certain official acts and utterances. I am sorry to say therefore that the régimé of your Lordship's predecessor was largely responsible for diverting a section of the Press from its honourable course into a course which has caused immense pain to all lovers of the country, to all lovers of peaceful progress and good administration. My Lord, the evil is there, but in dealing with it, in taking steps to extirpate it, let us remember the causes which have brought it about, so that our judgment may be tempered as the circumstances of the case may require. Let us remember also that since the time these newspapers began to abuse the liberty which they enjoyed, the Government has not been sitting idle. At no stage during the last three years could it be said that the Government failed to do its duty in regard to the suppression of all expressions of seditious opinions. We are told that the Government has been mild—the impression among the people generally is that the Government has been unduly severe; but, my Lord, there is another class of opinion which holds that the Government has been firmly mild and sympathetically severe as it thought the occasion required it to be. As soon as it felt that there was a necessity for doing so, it passed the Newspapers Offences Act in 1908, which can by no means be described as a mild measure. That Act has led to the suppression of certain journals which offended most severely; others have been tamed down or have died out. If there is any journal existing which still offends against the law, there is provision enough in the existing Code to stamp it out of existence. There is not a single member in this Council who would desire that any mercy should be shown to such journals, no one who desires that they should be allowed with impunity to abuse the liberty of publication which they enjoy. But I submit that unless the existing enactments are shown to be insufficient, that unless it is shown to be necessary to introduce new legislation, the Government should not place one more repressive measure on the Statute Book. I am sure Your Excellency would be most unwilling to place one such other measure on the Statute Book. There is no doubt that this Bill, if passed, will become a new source of discontent. This is evident from what I have seen of the comments that have already been made in some papers and from the many communications to which I have referred. Your Lordship was pleased in the noble and gracious speech with which you opened this expanded Council, to point out that, deplorable as were the outrages which the anarchists had committed, they were mere passing shadows. Your Lordship will allow me to quote your Lordship's words. You were pleased to say:

> " 'Though I have no wish to disguise from you the anxieties of the moment, I do not for an instant admit that the necessity of ruthlessly eradicating a great evil from our midst should throw more than a passing shadow over the general political situation in India, I believe that situation to be better than it was five years ago. We must not allow immediate dangers to blind us to the evidences of future promise. I believe that the broadening of political representation has saved India from far greater troubles than those we have now to face.'

" My Lord, that being the situation, that being the correct reading of the situation, there is very little justification for introducing and passing the measure that is now before the Council. If it cannot be abandoned, my Lord, I submit that there should be at any rate time allowed for further consideration of this measure. There is a real danger felt that the provisions of the Bill as it stands will seriously affect the legitimate liberty of the Press. Those provisions are unnecessarily wide and drastic. I will not take up the time of the Council by dwelling on them in detail. By way of illustration I beg to invite attention to the fact that the Bill has discarded even the very reasonable provision which existed in the Vernacular Press Act of 1878, whereby the Local Government was required to give notice in the first instance to an offending newspaper, a warning so that the publisher might avoid offending again. Section 6 of that Act required that such a warning should be given, and section 7 laid down that if the warning was not heeded certain consequences were to follow. I submit, my Lord, that such a provision at least should have been included in this Bill. Secondly, there is danger from the Bill not only to new presses but also to existing presses. In the case of new presses there is no reason shown for requiring everybody who wants to start a press to deposit a security. The fact that there are certain persons in the community who abuse their liberty does not justify action being taken against

persons who have not so misconducted themselves. To require every newspaper which may now come into existence to deposit a security is, I submit, placing an unnecessary barrier in the path of journalism and casting an undeserved slur upon the good conduct of the person who may wish to start a paper. If, however, the Government insist that some security must be deposited, it is nothing but reasonable to suggest that the Magistrate should only require it from a person in whose case he considers that there are grounds for believing that he might make use of the press for evil or seditious purposes. My Lord, considering that the liberty of the Press has not generally been abused during the long course of seventy years, I submit it is fair to ask that this change at least should be made in the Bill. I do not wish that an offender should be saved from the consequences of his evil action. I am only anxious that persons who are not guilty, who have never allowed any idea of disloyalty or sedition to enter their minds, should not be punished because some other person or persons have offended. Then, my Lord, in the case of existing presses, the Bill says that whenever any person goes to register himself as a publisher of a paper, the Magistrate shall demand a security from him. I submit that will mean that if the publisher of a paper which has existed for thirty years and which has never offended dies and a new publisher goes to make an application to have himself registered as such, or if the owner of a paper or a press which has existed for fifty years dies and the son or the heir goes to make an application that he should be registered as the keeper of a press or the publisher of the paper, he will be called upon to give a security. I submit that this is extremely hard and unjust. The Bill does not give the protection which it was thought at the first reading of the Bill was given to existing presses.

My Lord, I will not take up much more time of the Council. I am only anxious that the provisions of the Bill which have created an apprehension in the minds of the people that the liberty of legitimate discussion which is highly beneficial to the people and the Government will be curtailed, should be given up or recast. My Lord, when the Press is left at the mercy of the Local Government, when it is left to the Local Government by merely issuing a notice to demand a security, I submit the freedom with which newspapers have expressed their criticisms of the acts and omissions of Government is very much likely to suffer. After all, Local Governments are composed of human beings who are liable to err; and we have had instances of Local Governments committing mistakes which sometimes the Government of India have had to correct. If it should happen, my Lord, that a paper has been writing a little more outspokenly than it should have done, if a paper has offended by a series of criticisms passed upon the Local Government, any incautious or careless expression in it might much sooner be construed as falling within the definition of prohibited matter than might be the case if the paper had not been so criticising the Government. A notice issued to the keeper of the press or the publisher to deposit a security will, I fear, in many instances, at least in some instances, lead to the extinction of the paper. The paper might be owned by an individual who may not be in a position to lose the little property he has. It may be owned by a Company, and they may wish at the first indication of danger to close the business to avoid the threatened loss. In that way, my Lord, I submit papers generally will be constrained to write under a greater sense of restraint than is needed for the purposes of good administration or of fair discussion. For these reasons, I submit that the further consideration of this Bill should be postponed. And in support of this submission I would remind the Council of what Mr. Gladstone said in connection with the Vernacular Press Act. He said: 'I think, if one thing is more obvious than another, it is that, whatever we do give, we should not retract, and that when we have communicated to India the benefit which is perhaps the greatest of all those that we enjoy under our own institutions, viz., the publicity of proceedings in which the nation is interested, and the allowance of sufficient time to consider them at their several stages, to afford securities against wrong and error—it is deplorable in a case like this in India that the utmost haste . . . should have been observed, not in amending or altering, but in completely overturning, so far as the Press was concerned, a cardinal part of the legislation of the country.' I have omitted the word 'Native' because the present Bill affects the whole Press, European and Indian, English and Vernacular. My Lord, I submit that those weighty observations give us very sound guidance as to the lines which this Council should pursue. We should not expose ourselves to a similar criticism by passing this Bill to-day. No possible injury can happen if the further consideration of this Bill

is postponed in order that the public should have further time for consideration. Members of the Council should have a further opportunity of weighing the Bill, and the Government of reconsidering its decision as to the necessity of a new measure, or at least of introducing the new principle, viz., that of substituting executive discretion for judicial decision in determining whether a man has been guilty of some of the most serious offences of which any man can be guilty."

The Hon'ble Mr. S. P. SINHA said: "My Lord, as a Member of your Lordship's Government, who has had a great deal to do with the preparation of the measure now under discussion, I feel it my duty to make a few observations on the Bill, for certain misconceptions which apparently still exist with regard to its scope and purpose should, if possible, be dispelled, though I had hoped that after the lucid speech from my Hon'ble friend the Home Member it would hardly be necessary for me to have to transgress upon the attention of the Council to-day.

"My Lord, I ask your Lordship's leave to begin by expressing the regret that I share with most Hon'ble Members of the Council, and speaking personally for myself, the humiliation that I feel that we should to-day have to take part in the passing of a measure—which undoubtedly, I do not for a moment seek to conceal it—which undoubtedly, places greater obstacles than have hitherto existed upon the freedom of the Press. But, my Lord, while I feel the pain and the humiliation, I also feel consolation in being able to take part in a measure which I believe will have a great influence for good on the future of my country. It is because I believe this to be a wise, fair and just measure that I have agreed to take part in the introduction of this measure.

"My Lord, I call upon my countrymen—whose confidence I claim to have earned—I call upon them to give their cordial support to this measure and to do the utmost that lies in their power to make it a success and to show that the Government is not called upon to enforce the Act either by their executive or judicial powers; for the matter rests entirely in their hands. My Lord, I will not deal—I am not able to ascend to the sublime heights to which some of my learned friends in the Council have invited us to-day—with the disquisitions about the freedom of the Press, about the inestimable boon of a free Press, and matters of that description. However appropriate they may be on general grounds, I confess I am not fully convinced of their relevancy with regard to a Bill of the particular nature that we are considering. The question, and the only question, to my mind is this. Is there a necessity for the measure that we are considering to-day? And if there is, are the means which we are proposing adapted to the end which we have in view? Now, if I have understood my friends who have spoken before me aright, it seems to be universally conceded that the liberty of the Press, the freedom of the Press for which we all have a great affection, has been in many cases most grossly abused. Is that, or is that not so? I have not heard any of my friends, I have not heard my learned friend Mr. Gokhale, for whom I have the greatest regard, I have not heard my friend Babu Bhupendranath Basu, with whom I have worked for many years, I have not heard either of them deny that the liberty of the Press has been grossly abused. If that is so, are we not to try and find a remedy? I can understand the argument, 'why not have recourse to the existing law? Are not the provisions of the Penal Code, the Seditious Meetings Act, the Newspapers (Incitements to Offences) Act, which were passed only the other day, are not these stringent enough, are not these sufficient?' Well, if I cannot satisfy the Council that they are neither stringent nor sufficient, I will accept their verdict and say that the Bill which we have introduced is unnecessary and probably inexpedient. But let us see if as a matter of fact the provisions of the existing law are sufficient. Now my Hon'ble friend Mr. Gokhale has urged with characteristic force, that we have in the provisions of section 108 of the Criminal Procedure Code a weapon and an instrument ready to our hands which we have neglected to work, which we might have worked to greater advantage, and, if we had, there was no necessity whatever for a measure of the kind before us. Now my Hon'ble friend is not a lawyer himself. Fortunately or unfortunately, I have been for many years a lawyer, I have had practical experience of the working of section 108, and I have had a good deal of practical experience of the working of the sections dealing with sedition in the Penal Code; and I feel perfectly certain when I explain to the Council the difficulties of prosecutions under this sedition section and of prosecutions under section 108 of the Criminal Procedure Code, they must inevitably come to the conclusion that those provisions are neither sufficient nor stringent enough. Now let us deal first with section 108 which

is of the same nature, the remedy is of the same nature, as the one we are now trying to provide, namely, preventive. Sir Harold Stuart, I think, pointed out its inefficiency and I desire only to add that in my experience I found it to work in that way. Thus when you call upon a man to furnish security under section 108 because he has been publishing seditious matter or because he has been publishing matter which excites race hatred, or because he has been publishing matter for the purpose of intimidating Judges, supposing you succeed in proving that that is the man who has published or printed the matter in question—it is not always easy to do so—but supposing you succeed in proving that the man you hauled before the Magistrate under section 108 is the man who has printed or published or disseminated seditious matter; what is done? All that he is required to do is to enter into a bond or to give security, in other words, that he will not do it again. Well, when I have got that, how far have I got towards my end? Assume I prove it. I can prove it if he is a publisher, because he has to make a declaration under the Act of 1867 that he is a publisher. But he goes home and makes a declaration that he is no longer a publisher of that paper, so that the law cannot touch him. No, more, he puts up a friend of his, a man of straw, a dummy editor, to write, or rather to copy out what he has written himself. How do I benefit by the bond which I have taken? How do I prove that the man who engaged solemnly before the Courts of Justice to be of good behaviour in the future has transgressed? Humanly speaking, it is impossible to prove it. It is difficult enough to prove that the man is actually responsible for the dissemination of the poison. But when you have proved it and when you have got an order punishing him, when you have got it, you are no further than you had been before you ever came into Court. Well, that is the section that we are referred to saying, Why don't you work that? It has been worked, it has been in practice found to be unsuccessful, and with the explanations which I have given is anyone surprised that it should be unsuccessful?

"Well, then, I will deal now with the section with regard to sedition, the section which we are unfortunately so familiar with for the last few years, Section 124A. My Hon'ble friend refers with great force to the observations of Sir Herbert Risley and says that we confessed ourselves that during the last two years we have had 40 prosecutions, and that in these prosecutions we have had cent. per cent. of convictions. What more do we want? We have succeeded in every case. The law is potent enough to deal with such cases. Well, it would look like that to people who are not behind the scenes. If my Hon'ble friends think that because there were 40 prosecutions that there were only 40 seditious articles, I can tell them that they are greatly mistaken.

"My Lord, I have been the confidential adviser of the Government of Bengal and the Government of India for many years past, or had been rather—I beg my friend Mr. Kenrick's pardon. During that time I know what the procedure was that we had to go through before we initiated prosecutions for sedition. It would go from the lowest officer who dealt with it to the highest, each officer recording his note and each had to say whether he thought the case good enough to prosecute it. When all that had been done it would be referred to the Legal Remembrancer to the Government of Bengal whether he thought that a conviction would be obtained. And if the Legal Remembrancer thought that it would, it would then go to the Standing Council or the Advocate-General, or the two together, to say whether they thought it was a proper case for conviction. Well, it does not seem to be a very expeditious process, does it? As a law officer of the Crown, one would never advise a prosecution of the Press unless one was absolutely certain of being able to obtain a conviction. There is the secret of why there have been cent. per cent. convictions, because out of ten cases we have had before us we would not allow prosecutions to be initiated in nine out of ten. And there is very good reason, I think, for it is not that the law officers do not do their duty: there is every reason why law officers should be particularly careful in matters of this description. One abortive trial for sedition creates more mischief than 10 successful prosecutions. I appeal to all lawyers who are present here, in fact to all men of common sense, as to whether that is not so. If you fail in one case of prosecution for sedition, the immediate effect is that you create an impression that the Government is tyrannical and oppressive and trying to suppress expressions of free opinion and legitimate criticism, and the man who, after all, may be a criminal, who has just escaped with the skin of his teeth, is raised into a martyr and a hero. Well, that is the effect of these prosecutions for sedition. I hope I have shown satisfactorily that it is not always possible

to say that because there are convictions cent. per cent. that therefore all the cases of sedition have been dealt with and that the law can easily reach all the persons who are actually guilty. It is also to be remembered that in a Criminal Court the accused must be given the benefit of the doubt: if there is the slightest element of doubt you cannot send the editor or the proprietor or the publisher or the printer to jail. That is one of the elementary principles of English jurisprudence. But does anybody want that doubtful matter—I do not say absolutely seditious matter—but does the Council want, do my Hon'ble friends want that even doubtful matter should be disseminated among the young men of the country? I venture to say on behalf of parents that they do not: that if they were to answer they would say at once, 'We object to doubtful matter being placed before our sons and daughters in order that their minds may not be poisoned by literature of this description.'

"I hope I have said sufficient to convince the Council that the existing law, either under Section 108 of the Criminal Procedure Code or under Section 124A of the Indian Penal Code, is not strict enough for the purpose of meeting the evil complained of—licence of writing—which requires to be checked. If it is admitted that the existing law is not sufficient for the purpose it follows that something besides the existing law is necessary, and according to the best of our lights this is the measure which we put forward as an adequate means toward that end.

"My Lord, it has been described as drastic, as interfering with legitimate criticism, as interfering with the liberty of the Press. Let us for one moment examine the provisions of this Act and see if there is any foundation whatever for this criticism. Now, we provide that, so far as existing newspapers and existing presses are concerned, we should not require anything under this Act so long as they remain within the law: nothing in this Act should touch them. Does that sound very drastic? Does that sound as if the Government is intending to choke knowledge or to block the progress of education? Is it to be seriously suggested that papers of the description which we have in view in enacting this measure are papers which are potent instruments for the dissemination of knowledge? I disclaim on behalf of this Council any such idea. Well, you have this, that the existing papers and the existing presses are not to be required to give any security at all, but we ask that persons starting a press for the first time, or persons starting a newspaper after this Act is passed, should give security. It is said that this casts a slur. Where is the slur? Indeed, on the other hand, what my friends suggest, that it should be after an enquiry that the security should be required, would cause a slur, and it would cause a slur which would be irremovable by any process known to the law. My Hon'ble friends Pandit Madan Mohan Malaviya and Mr. Gokhale suggested—I am not sure that I am in order in dealing with these details of the Bill—that if you require security you cause a slur upon the man. And how do they get rid of that? Why, by telling the Magistrate that security is to be required only when the Magistrate thinks that he is a man likely to preach sedition. Which view or which provision would cause a slur—our provision which says that every man who comes will have to give a security for good behaviour without any imputation whatever on his character because we have nothing against him; will our provision cast a slur or will the provision of our Hon'ble friend that the Magistrate is to make an enquiry to find out whether he is seditious or not, and if he thinks that he is seditious, to require security? And, mind you, there is no appeal against it; it is final, absolutely conclusive, if the Magistrate says 'give security; you are a seditious person, you ought not to be allowed to print anything; put down two hundred or five hundred rupees, as the case may be.' I say that that is not an improvement on the Bill, and my Hon'ble friends are not quite familiar with the provisions of the Bill. I admit that the time they have had to peruse the Bill and to digest its contents has not been very great, but this is a sample of the criticism which I am sorry to say has been extended to this Bill.

"Now I do not desire to be long, but I only want to say a few words with regard to my second point, namely, if there is a necessity, is the Bill which we have put before the Council adapted to meet the end which we have in view, and further is it so very drastic as it is sought to make out? Well, most Members have said, and I repeat it, that we do not expect that the man who is already armed with a Browning pistol or a dagger or with a bomb will be affected by the provisions of this Act. If he is out in the street watching for a man to be killed, he is not likely to stop to read the Act and to be checked or deterred by any provisions of the Act. But what we seek to do is to cut off the fuel from the fire,

the supply of the material which is used for the purpose of the anarchist propaganda. Will it or will it not have this effect? Will it not prevent these from reaching the ears of the young men whom they get hold of? I venture to think that, at any rate, it is worth trying. Let us try and see if this does not cut off the source of supply without which the propaganda must fail sometime or other. Well, I say therefore that it is one of the means—we do not say that it is the only means or that it alone will serve that end, but it seems to us a means—one perhaps of the many means which are necessary to effect the object which we have in view. That being so, there being the necessity and this being a means of carrying out the object which we have in view, the only other question that I think this Council ought to consider is, is the Bill too drastic, or in other words does it go beyond the necessities of the case? If it does, we do not want it; we want that and that only which is strictly and absolutely necessary for the purpose we have in view. Well, I confess that after great thought and great consideration and the most anxious care that I could bestow upon it, it seemed to me that the Bill as framed and as put before the Council does not err on the side of being too drastic. Let me for one moment—I think it is not very necessary because Sir Herbert Risley explained it clearly and better than I can—but let me remind you of the nature of the provisions of this Act. We do not touch existing newspapers. We ask the new papers or the new presses which are to be started after the new Act is passed to give security; for what? Rs. 500 is the minimum. The Bill as originally introduced asked for Rs. 5,000 as the maximum. We have reduced it in Select Committee to Rs. 2,000. The Magistrate therefore in regard to new presses and new papers has the power to require security to be given, not for an unlimited amount, but anything between Rs. 500 and Rs. 2,000; but unless we are to assume that the Magistrate is by nature and design a malevolent creature, we may take it for certain that in ordinary cases he will not ask for more than Rs. 500, the minimum. It is only in extreme cases, and if he has reason to think that it might be misused, that he would ask for anything more than the minimum. Well Rs. 500 to Rs. 2,000 does not seem to be an extraordinary sum to require the person who will have a printing press, a potent instrument for evil as well as for good, it does not seem to me that it is an extraordinarily large sum to ask the keeper of a printing press to deposit. With regard to the publisher also, a man who is to have the power of disseminating broadcast literature which might have great influence for evil as well as for good, we do not think it is a large sum to require the publisher to put down. We want responsible persons to have the conduct of these newspapers and the publication of books which would have such influence upon the youth of the country. I do not think that any right-thinking man will say that, in asking for that security, we have fixed it so high as to make it impossible for well-intentioned persons with small capital to embark on an enterprise of this kind; that we have made it impossible for them to carry on legitimate business. Well, when the security is given, the money is in Court; it may be that if it had remained with the man he would have been able to get more out of it than the 3½ per cent. which will be realised upon it as invested in Government securities; and all the time the money is in Court interest is accruing on the money as on Government securities, because no money is kept in Court locked up in box. The moment you put it in, it is invested in Government securities, and the man who puts in the money will be getting his 3½ per cent. interest on his money. He might have made more of course. We know that in India it is possible to get very much larger rates of interest, particularly in country districts; but still it is not such a very great deprivation to be compelled to take 3½ per cent. with regard to money which you are bound to provide as a security for good behaviour. And it is only because the circumstances are exceptional and because privileges have been abused, that we are obliged to have recourse to a measure of this kind. When the security has been put in, the keeper of the press or the publisher of the newspaper has nothing to fear unless he publishes matter prohibited by the law. When he has done that, what is the punishment to which we subject him? The security between Rs. 500 and Rs. 2,000 which he has deposited is declared to be forfeited,—by whose order? By the order of the highest executive authority in the Province, the Local Government. It is a great power which we no doubt confer upon the Local Government. It is to be exercised on the gravest responsibility; it is to be exercised under safeguards which I will presently mention, which will make the Local Government hesitate before it makes an order of forfeiture, because there is a tribunal who may sit over it and reverse its decision. That in itself is a great check. It will incline

the Local Government to be careful and cautious before exercising this great right. There will be a great sense of responsibility created by the very fact that there is a tribunal which can deal with it afterwards. Well then, supposing the Local Government makes that order of forfeiture, what happens? Is this man prevented from going on with his paper? Has this man got to shut up his printing press? No, he has only to come and say 'I now ask that I should give the further security that you have provided for, and that I should have another chance.' It is not that, on the first offence being committed, the Local Government takes his security and shuts up his business and shuts up his paper. That is not so; on the first offence the Local Government orders that the security, and the security only, shall be forfeited. He can the very day, or the very next day, give further security and go on with his paper and the press, and at the same time appeal to the High Court. If the High Court sets aside the order of the Local Government, what happens? He gets back the second security which he has put in, and the first security which was ordered to be forfeited comes back to the position in which it was and remains as the original security. So all that has happened is—on the first order of forfeiture being made, all that has happened is—that he is kept out of the double security for the period between the date of the first order and the date of its possible reversal in the High Court. Well, no doubt that is a curtailment of a right; no doubt that he loses something; but all I say is this. It is a sacrifice which every right-thinking citizen is bound to make, having regard to the exceptional circumstances for which this exceptional legislation is introduced. It is a sacrifice; but it is not a very heavy sacrifice, and it is a sacrifice which you ought cheerfully to make having regard to the fact that there has been undoubtedly a good deal of sedition in the Press, and who will take upon himself to say that this kind of literature has not had its influence upon the youths whose outrages we all deplore and condemn? It is a sacrifice; it is a curtailment of a right, but it is not a very great one.

"It is of no use to attempt to convince us that it is a very drastic measure, because we feel sure that it is not. We have put in all kinds of safeguards. I will mention another which my Hon'ble friends seem to have forgotten in their hurried perusal of the Bill. When the Local Government makes the order of forfeiture, the Bill provides that it must state or describe the offending words or articles, or pictures, or engravings, or whatever it is upon which it bases its order. No making an order which is vague, which is indefinite, no order without allowing the man to know what he is being punished for, but a definite order stating the very words of the article or describing it as that which the man is being punished for. Is not that a safeguard? Apart from the tribunal of appeal, is it not a safeguard to provide that a man will not have his security forfeited without being told exactly what he has written that is taken exception to?

"I will tell the Council of another safeguard which my learned friends seem to ignore. We provide this. It is our desire to let byegones be byegones; we do not want to get hold of anything that has been done in the past. We only want that, after the Act is passed, they should not transgress again; that is all that we require, and we provide that, when an order of forfeiture has been made and the man comes to the High Court, the Local Government will be entitled only to rely, in support of the order that they had made, upon anything that has been written after the passing of this Act and not before the passing of this Act. They will not be able to say, 'This man is a notorious sedition-monger; for the past three years he has been preaching hostility and sedition.' They are not allowed to do that, all they can say is, all that the Local Government can say is that 'from and after the 7th of February, 1910, this man has been writing seditious articles,' and it is to these and these alone that we assign the sedition for which he is punished. Is not that a safeguard? Does that look a drastic provision? Is that any indication of a desire to choke the sources of knowledge? Gentlemen, all that this Bill intends to effect is that nobody should, by writings in the public Press, create bitterness and hostility and hatred towards the Government by law established, towards the allies of the Government, and towards any class or sections of His Majesty's subjects in British India. Does anyone want to do it? Does anyone think it is desirable that there should be any writing of that kind, creating bitterness, hostility, and hatred either towards His Majesty, or towards his Government, or towards the Native Princes of India, or towards any class of His Majesty's subjects? Again I claim to speak on behalf of the educated middle class of my countrymen to whom I belong. I say the answer is emphatically no, we do not want any writing of that description. We

do not want that such writings should continue and that they should continue to poison the minds of the youth of the country."

The Hon'ble MALIK UMAR HYAT KHAN said : " My Lord, some years ago, when I had the honour of an interview with Your Excellency, I strongly advocated that some action should be taken against the seditious Press. I am glad to find now that the Government has considered it expedient to take such action. The Press here, like that in other civilised countries, does not represent the public feeling, but, on the contrary, some seditious people get the chance of becoming editors and thus through the medium of their papers convey their feelings to the innocent public, who are not educated but can only read and write and are apt to be infected by the Press comments. Every printed paper is regarded by them as a message from heaven, or at least as an interpreter of national views or feelings.

" I am glad that Princes and other responsible persons whose interests are interwoven with those of the State and the land are aware of the consequences and bear similar views. The question was that the Parliament might not be in favour of a repressive measure. But I wish some of its members were here on the spot, and I think they would have been the foremost to move for the introduction of such a measure. The law is always meant to meet the requirements of a country and has to be varied and modified according to circumstances.

" It is all very well for those who have more experience of England to speak about the liberty of the Press there, but we should be guided by our own circumstances, refer to our own conditions, and solve our problems in our own way.

" No one can deny that recently there has been an abnormal change in the country towards the development of anarchism, and we want abnormal measures, some legislation of a stringent character demanded by the situation to cope with the evil and to check it. Though I don't think that this Act will uproot the mischief hitherto worked by the preachings of the revolutionary Press, platform speeches, by the aggrieved and unemployed youths, and, if I may be allowed to say so, by some speeches in the Parliament and in this very Council; but we know it is a step in the right direction. We don't want to take any half-hearted or spasmodic measure but a drastic and decisive step. Much has to be done for India, and the energy of the Press can be directed to far better purposes.

" It makes a material difference when a certain section or community is offering wholesome comments or criticisms on measures of administration and when it desires to injure others and tries to overthrow the foreign rule and attain self-government. India has been ruled by foreigners from ages, and I can positively say that it is utterly impossible for it to hold its own even for a moment if freed from British administration, on account of the diversity of castes and creeds, races, religions and languages, the radicals of which differ so widely that it is impossible for them ever to unite.

" It will be seen that the great Muslim Emperor, Akbar, and a famous spiritual leader of Sikhism, Guru Nanak, and several others have tried to effect a general union; but the situation, if it is not the worst, is just as bad as before.

" I hope I will not be taken for a blind supporter of the Government as I belong to a Province where there has been no increase of anarchical crimes and no general discontent, and where the landowning class, which I have been given the honour to represent here, has always proved most loyal and trustworthy.

" I am deeply interested in the welfare of my country and have it always at my heart and perhaps more solemnly than most of the so-called showy platform patriots now-a-days liked by inexperienced fanatics who do not know that they are doing a great harm to their country when it is in a stage of great advancement.

" I don't say that we have got the most perfect administration. There may be always room for improvement, but excuse me to say that it is the best possible administration India has ever enjoyed.

" It is time we should put a stop to revolutionary preachings and bring the liberty of the Press within the limits of legitimate discussion, and I believe this Bill will have the whole-hearted support of all the loyal communities of India.

" I hope I shall be excused for saying that while speaking here we should not try to show our boldness in criticising Government measures but should also realise that we are responsible hands of the administration and should try our best to co-operate to combat the present evils and get this most needed measure through without any division, if possible."

The Hon'ble Mr. CHITNAVIS : " My Lord, I have the honour to represent on this Council special interests, and I feel I should not give a silent vote on this

occasion. In my remarks I voice the opinion of the bulk of my constituents. It is an irony of fate that the first important Bill before the enlarged Council should be one seeking to control, be it in ever so small a measure, the liberty of the Press, such as we have, through British magnanimity, come to associate with British Government in India for three-quarters-of-a-century, and the thought fills me with pain that circumstances have arisen in our midst to force our support to almost any well-considered measure, arming Government with extraordinary powers of control and punishment. Under pressure of danger, it is excusable for individuals and Governments to adopt extraordinary methods. I am convinced the Bill should be supported not because I hope it will root out anarchy, but because in trying times the Executive Government, responsible for the maintenance of law and order, without which no progress is possible, is entitled to the cordial co-operation of the community in their efforts at the suppression of an evil deplored by us all, the Press not excepted. The claim for support, always strong, is much stronger in the case of Your Excellency's Government on account of the large-hearted and far-reaching concessions they have graciously made. A check of some kind on a portion of the Press would also appear to be called for in the interests of parents and guardians and the younger generation. It is of the utmost importance that journalism should be the profession of gentlemen of the highest attainments imbued with high ethical ideas, and that they should bring to the consideration of public questions a calm, judicial temper and a large outlook, always remembering the heavy responsibility that rests on their shoulders. The Press plays an important part in the development of a nation, and it is a misfortune if, through reckless writing, it forfeits the respect of the community and the confidence of Government, and moves the turbulent elements of the society to commit violence which renders progress impossible.

" But at the same time that I support the Bill, I appeal to Your Excellency to do something for the reclamation of the misguided youths of the country. Surely British statesmanship ought to be able to devise means for that. The leaders of the people may with advantage be taken into the confidence of Government. The Government and the people working together in mutual trust and whole-hearted co-operation can do much to suppress turbulence, restore peace, and render the struggle for existence among young men less disheartening, thereby depriving anarchism of its votaries. The Bill is only preventive in its scope. Something more positive is required to infuse into Young India a healthier public spirit. The methods of the anarchist are the worst calculated to secure to his countrymen that independence for which apparently he works. An anarchist propaganda has never secured and can never secure independence to any nation. Independence in the material as in the moral world can only be earned by strict discipline and unswerving loyalty to law and order. Anarchism retards the fruition of the country's hopes and its progress. Self-government is attainable only under the ægis of the British Government by a process of slow and peaceful evolution. These truths make little impression on fanatics. Reason is clouded in them by sentiment, and they are swayed by their own ungovernable frenzy. And the result is what has alarmed the whole country, a startling demonstration of fury. Every effort should be made to check this frenzy. The nation has now roused, and no sympathy is felt in any quarter for the youthful assassin. This carries in it a hope for the future. There is yet another element of hope in the situation: youths are responsive to kindness. It should be still possible to attract them by clemency and encouragement to the side of law and order, to give a healthy direction to their ideas, and to divert their fervour and activity into profitable channels. The feelings of abhorrence expressed in this Council Chamber to-day echo the feeling of the whole country, and the people will have reason to be grateful to Your Excellency if the present measure is productive of the good that is expected from it. I was present at and took part in the debates on a Bill of a similar nature in 1898. Many non-official members, and I among them, then strongly opposed the measure, but circumstances since then have greatly changed, and I find to-day a general feeling both in this Council and outside it to support Government in any judicious measure calculated to put a stop to the present state of things.

" In conclusion, my Lord, I earnestly hope that the Bill will produce a salutary change in the tone of the Press, and that before long it will be possible for Government to repeal the measure."

The Hon'ble ZULFIKAR ALI KHAN said: " My Lord, after the brilliant defence of the Bill made by my Hon'ble friend Mr. Sinha I do not consider there is any

necessity to speak at all, but as all of us have our different views about it I think I may as well be given an opportunity to express the views which I entertain about the Bill which is before the Council to-day. This Bill touches the principles of the liberty of the Press in India, and embodies one of the most important measures recently adopted to check that license of the Press which has given birth to the anarchical movement in this country. I have no doubt that all sober-minded men will support the Government in its efforts to maintain peace and order and secure the uninterrupted welfare of the masses in India whose happiness is no doubt imperilled by the mischievous activities of certain fanatics, who are the enemies, not only of Government, but of their own country as well. During the last decade we have witnessed a systematic campaign carried on by a section of the Press, especially the Vernacular Press, to inflame the minds of young men and to create an atmosphere of unrest by deliberately misrepresenting the acts of Government, and thereby destroying public confidence in the justice and good intentions of the authorities. This sort of writing inaugurated a reign of terror which culminated in murderous outrages of a most abominable character. The motive which prompts young men to resort to violence is apparently to make the government of the country impossible and to destroy the seeds of civilization which have been planted in this country during the last century and a half. No consequence of this subversive propaganda could be more natural, more plainly inevitable, than the introduction of this Bill. I am sure it is not the intention of Government to chloroform the Press into silence, or restrict fair and honest criticism of the administration, for no enlightened Government would ever think of curtailing the liberty of the Press to such an extent. But the anarchical conspiracy which has been discovered requires that no further abuse of the liberty of the Press should be tolerated. That section of the Press which has all along remained free from contamination and has worthily striven to form and guide healthy public opinion will, I am sure, continue to enjoy the power and prerogative of its high mission to help and enlighten the Government and the public in their united efforts towards progress and prosperity."

The Hon'ble RAJA OF DIGHAPATIA said : " My Lord, I rise to address this House in a spirit of great hesitancy and under a sense of great responsibility. As a loyal citizen, I feel it my bounden duty to support the principles of the Press Bill introduced by the Hon'ble Home Member at the last meeting of the Council. I am quite sure that the time has come when some strong measures should be taken to control literary license and illegitimate criticism of public affairs in the Press in India. A Press that indulges in literary license and travels beyond the limits of legitimate discussion and encourages revolutionary propaganda is undoubtedly a great danger to the State and to the public in general and therefore needs badly to be controlled. But it is to be hoped that only a very small section of it falls under such category and the bulk are as loyal as ever, diffusing nothing but healthy literature and knowledge. Under the circumstances, while admitting the absolute necessity of some control over a section of the Press, I fear that the present Bill in some cases may be prejudicial to the best interests of good and healthy literature.

" The men who start printing-presses in India do not generally belong to an opulent class and can hardly afford to pay heavy securities which the new Bill will require of them to deposit. Considering that a large number of printing-presses confine themselves to merely printing text-books as well as social and religious works and more often than not steer clear of all political publications, I humbly think that this Bill will interfere materially with the development and expansion of this section. As regards the section of the Press which deals with politics, no doubt this measure will improve their tone and make their owners more careful in future, though, I am afraid, it may prove to a certain extent deterrent to honest criticism at times.

" It is a well-known fact that a large number of people who write for the Press in India have to deal with a language about which their knowledge is limited, and it will not be a matter of surprise if, in commenting on public measures, legislations and administrative acts, some of them should have the misfortune to use erroneously any English words, phrases or idioms, in such a way that might be construed to have a ' tendency ' to commit an offence in terms of section 4, sub-section (1), of this Bill. Since, as I believe, it is not the intention of the Legislature to penalise an imperfect acquaintance of a foreign language nor the misapplication of foreign words, phrases or idioms, I venture to submit that proper

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latitude will not be grudged to such errors and the intention of the writer will be considered fully in all such cases.

"My next submission to your Lordship is that the measure will be found doubly hard for a man in ordinary circumstances who happens to be a publisher of books and newspapers and owner of a press at the same time.

"However much I feel the necessity of some sort of control over the Press of this country at the present moment, I appeal to your Lordship that the present Bill may not be allowed to remain in force for a period of more than five years. Let us hope within five years' time a healthy change will come over the general situation in India. But if unfortunately our hopes are not realised, the Government may by notification at any time renew this legislation. In 1898 the Government of India found itself compelled to make the law of sedition more stringent than before in view of the many acrimonious and bitter things that were being said at the time by a certain section of the Press; but only five years after, in 1902, Lord Curzon, speaking as Chancellor of the Calcutta University, was pleased to remark that the Indian section of the Press was 'gaining in sobriety and wisdom.' Therefore, my Lord, there is no reason to be absolutely despondent as regards the situation in India five years hence, and we fervently hope that if such a day should ever come, it would be possible for the Government of India to remove this measure from the Statute-book. In this connection, I may be permitted to draw your Lordship's attention to the fact that the Seditious Meetings Bill, which was intended to meet an equally emergent situation, was enacted to remain in force only for three years.

"Though I have been obliged to make these observations on the general trend and clauses of this Bill, I heartily approve of its principles and have no hesitation in supporting it."

The motion was put and agreed to.

His Excellency THE PRESIDENT stated that he proposed to take the two amendments which stood in the Hon'ble Babu Bhupendra Nath Basu's name at the end of the other amendments.

The Hon'ble Mr. GOKHALE moved that in clause 3, sub-clause (1), of the Bill to provide for the better control of the Press as amended by the Select Committee, for the word "every" in the first line, the word "any" be substituted; for the words "shall, at the time of making the same deposit," in the sixth line, the words "may be required, at the time of making the same, to deposit" be substituted; and after the word "India" in the thirteenth line, the words and figures "if, in the opinion of the Magistrate, there are reasonable grounds to believe that the press is intended or is likely to be used for any of the purposes described in section 4, sub-section (1)," be added. He said: "My Lord, I may briefly explain what my amendment is. Clause 3, sub-clause (1), provides that when any person wants to keep a printing-press after the passing of this Bill, he shall ordinarily be required to deposit security ranging between Rs. 500 and Rs. 2,000, the Magistrate in exceptional cases being empowered to dispense with the deposit of the security or to vary or cancel any order from time to time that he might make. Now the object of my amendment is to reverse this, and what I propose comes to this: that ordinarily every keeper of a press, after the passing of this Act, *i.e.*, everyone who wants to keep a new press, shall be free to come and make the declaration without offering security, and that only where the Magistrate thinks that the press is intended or is likely to be used for the publication of prohibited matter, that he should demand security. My Lord, my Hon'ble friend Mr. Sinha, whom we are all proud to see on that bench there, and to whose powerful speech we listened with great pleasure, though he gave some of us very little quarter—Mr. Sinha dealt with this amendment of mine by anticipation and therefore I am at a little disadvantage in placing it now before the Council. However, let me explain my position briefly. My Hon'ble friend seemed to suggest that this amendment had been moved by us owing to a misapprehension of the object of Government and owing to our not having studied the Bill properly. Now with all respect, let me assure my Hon'ble friend, that a Bill of 26 sections does not take very long to study. It is true we had only four days, but so far as I am concerned, I had studied the thing carefully before I sent my notice of amendment. I really think that, in spite of all that fell from him, this would be a better provision than the provision which the Government proposed in the Bill. My Lord, the Hon'ble Mr. Sinha himself stated that the object of Government was to provide only for the bare requirements of the situation; they did not want to go an inch

further than the situation demanded. Now what are the requirements of the situation? The situation required that every new press which might reasonably be suspected of being likely to be used or intended to be used for the publication of seditious matter, should be kept under strict control first of all by the deposit of a security. It is quite true that it may be a difficult matter for a Magistrate to make an enquiry and make up his mind as to whether he will demand a security or not, but the Magistrate ought to face this difficulty as he does in so many other cases. In any case, it would be a smaller evil than this one where you demand security from every one. Mr. Sinha bracketed me with another member as saying that this would cast a slur on the person from whom the security was required. I believe he had in his recollection some remarks made by me in Select Committee, but so far as my speech of to-day was concerned, I never said a word about a slur being cast on anyone—[The Hon'ble Mr. SINHA: "I beg the Hon'ble Member's pardon; probably he is right; I was thinking of what he said in Select Committee."] And in my minute of dissent I have confined myself to this ground only, that the deposit of security ranging between Rs. 500 and Rs. 2,000 would be a financial burden, and in many cases it would be an unnecessary financial burden. My Lord, I have especially the cases of our backward communities in view. The backward communities of this country are now coming forward, and there is a general demand for education and for educational organs of their own. On the Bombay side recently there have been three or four conferences of backward Mahrattas, and at every one of those conferences a desire was expressed to have an organ of their own. Now I am quite sure some of these bodies will find it difficult to put together more than a thousand or two thousand at the outside and set up a press and have an organ of their own. If the keeper of every new press is to be required to deposit security as a matter of course—of course there is the discretion given to the Magistrate in exceptional cases, but I do not suppose ordinarily it will be exercised—if every keeper of a press is to be required to offer this security, I think it would work as a great hardship on these small concerns. Again, where the same individual wants to have a small press and issue a small paper, he may be required to deposit two securities of two thousand each. The Hon'ble Mr. Sinha says that ordinarily the Magistrate will require only Rs. 500. Well, I am prepared to take a good many things from Mr. Sinha, but I am not prepared to take that from him, as that would depend on the Magistrate and not on the Law Member of this Council. My Lord, I therefore think that my proposal would be better than the provision which the Government have introduced into their Bill.

"The Hon'ble Sir Herbert Risley told us that the object of this provision was to meet the case of those old offenders who take new forms and again and again come up in different garbs. Well, if the Magistrate is given this discretion, that would be effective, and a financial burden which would be felt as a hardship by many would be prevented. I therefore suggest that my amendment should be put to the meeting."

The Council divided—

Ayes—9.

The Hon'ble Pandit Madan Mohan Malaviya.
The Hon'ble Mr. Sachchidananda Sinha.
The Hon'ble Babu Bhupendra Nath Basu.
The Hon'ble Mr. M. Mazharul Haque.
The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.
The Hon'ble Mr. G. K. Gokhale.
The Hon'ble Rao Bahadur R. N. Mudholkar.
The Hon'ble Mr. Mahomed Ali Jinnah.
The Hon'ble Sir Vithaldas Damodar Thackersey.

Noes—50.

His Honour the Lieutenant-Governor.
The Hon'ble Mr. J. O. Miller.
The Hon'ble Sir G. Fleetwood Wilson.
The Hon'ble Mr. S. P. Sinha.
The Hon'ble Sir Herbert Risley.
The Hon'ble Major-General R. I. Scallon.
The Hon'ble Mr. R. W. Carlyle.
The Hon'ble Mr. L. M. Jacob.
The Hon'ble Mr. W. Maxwell.
The Hon'ble Mr. J. S. Meston.
The Hon'ble Mr. J. B. Brunyate.
The Hon'ble Sir H. A. Stuart.
The Hon'ble Mr. S. H. Butler.
The Hon'ble Mr. Abdul Majid.
The Hon'ble Raja Partab Bahadur Singh of Partabgarh.
The Hon'ble Raja Sir Muhammad Ali Muhammad Khan.

Ayes.

Noes.

The Hon'ble Malik Umar Hyat Khan.
The Hon'ble Zulfikar Ali Khan.
The Hon'ble Sardar Partab Singh.
The Hon'ble Mr. M. W. Fenton.
The Hon'ble Mr. F. A. Slacke.
The Hon'ble Maharajadhiraja Bahadur of Burdwan.
The Hon'ble Mr. J. M. Holms.
The Hon'ble Mr. C. H. Kesteven.
The Hon'ble Mr. C. G. Todhunter.
The Hon'ble Surgeon-General C. P. Lukis.
The Hon'ble Mr. H. W. Orange.
The Hon'ble Mr. J. M. Macpherson.
The Hon'ble Mr. J. Andrew.
The Hon'ble Raja Vairicherla Vairabhadra Raza Bahadur of Kurupam.
The Hon'ble Mr. H. O. Quin.
The Hon'ble Mr. F. Rawson.
The Hon'ble Kanwar Sir Ranbir Singh.
The Hon'ble Mr. W. C. Madge.
The Hon'ble Mr. C. W. N. Graham.
The Hon'ble Mr. F. A. T. Phillips.
The Hon'ble Mr. M. B. Dadabhoy.
The Hon'ble Mr. G. M. Chitnavis.
The Hon'ble Mr. F. C. Gates.
The Hon'ble Maung Bah Too.
The Hon'ble Mr. P. C. Lyon.
The Hon'ble Maulvi Abdul Karim Abu Ahmud Ghaznavi.
The Hon'ble Raja Pramada Nath Ray of Dighapatia.
The Hon'ble Maulvi Syed Shamsul Huda.
The Hon'ble Mr. C. Stewart-Wilson.
The Hon'ble Mr. F. E. Dempster.
The Hon'ble Lieutenant-General Sir Douglas Haig.
The Hon'ble Sir T. R. Wynne.
The Hon'ble Mr. G. H. B. Kenrick.
The Hon'ble Colonel F. B. Longe.

So the motion was negatived.

The Hon'ble BABU BHUPENDRA NATH BASU moved that in clause 3, sub-clause (1), for the words "five hundred" and "two thousand" respectively the words "two hundred" and "one thousand" respectively be substituted. He said: "The meaning of the amendment is this that in the Bill as submitted by the Select Committee the amounts are fixed at the minimum of five hundred and the maximum of two thousand rupees. I venture to submit to this Council that the minimum should be reduced to two hundred and the maximum to Rs. 1,000. Would your Lordship permit me to put these two separately, first the minimum and then the maximum. I wish to put the minimum at Rs. 200. My Lord, the Hon'ble Mr. Kenrick has said that there is no intention to choke the springs of knowledge, and my Hon'ble friend Mr. Sinha was also pleased to say that the Bill has not the remotest chance of in any way interfering with the spread of education. Well, my Lord, as regards my Hon'ble friend Mr. Sinha, we have listened to his arguments with great attention. I have known him for many years and we have always entrusted to him the leading of a forlorn hope, and I have often seen him carry that forlorn hope to a successful issue by his brilliant dash, skill and leadership. In this case also I am afraid he has almost persuaded many of us. Unfortunately, we on the other hand, earnestly, sincerely and honestly believe that the Bill may interfere with progress, and in order to mitigate that effect of its really

putting a bar on the road to progress, and also in view of the fact that the Bill is only going to be a preventive measure and not a punitive measure, I would respectfully beg of this Council not to make the conditions too hard. As my Hon'ble friend Mr. Gokhale has pointed out earlier to-day, there are many keepers of presses who are poor men and who start their presses for different objects altogether. It will not be unknown to my friend Mr. Sinha, that in the Jessore and Faridpur Districts the so-called depressed class, the Namasudras, are endeavouring to raise themselves in the scale of society and they are thinking of taking steps to spread education in their midst and of starting an organ of their own which will deal with social questions, so that the difficulties under which they labour at present may be removed. In these cases it will not be possible—and I say so because I know of what I speak—in these and other cases it will not be possible for the people to find the money for the security. Not only in these cases but in many others even in the Metropolis of India I know of many presses which start to print job work, which will not be able to find the money. The Magistrates will hardly have the time and may not feel inclined to go into the merits to decide whether security should or should not be taken. With these remarks I will ask the Council to fix the minimum at Rs. 200."

The Hon'ble SIR HERBERT RISLEY : " My Lord, I am afraid that I cannot accept this amendment. In Select Committee we reduced the amount to Rs. 2,000, and I am afraid I am not prepared to reduce it any further. It is desirable that there should be substantial security. As has been pointed out, the amount of the security is not necessarily the amount of the sum itself but the amount of interest that is required to raise it.

" As for the Namasudra movement, I know all about it and I am in entire sympathy with it. It is, however, out of the question to suppose that this will interfere with a magazine started for the purpose stated by the Hon'ble Babu Bhupendra Nath Basu. That would clearly come within the purview of the dispensing clauses and properly be dealt with by that means."

The motion was put and negatived.

The Hon'ble MR. GOKHALE moved that in clause 3, sub-clause (2), for the words " five thousand " in line 14, the words " two thousand " be substituted. He said : " My Lord, this refers to the cases of old printing-presses. The cases that I have in view are those of small presses in small taluka towns, not at the headquarters of a district or in any of the big cities. They are very small concerns. Sometimes the whole of one of these concerns may not be worth more than Rs. 500 or Rs. 1,000 and all sorts of things are printed at it. Take the case of a place where one of these presses was situated and where a wandering dramatic company produced a drama of an objectionable character. It might happen that the press might print a handbill about the drama without knowing what it was printing, and might get into trouble, especially if it is not on good terms with the local officials who are all small officials. Now if Rs. 5,000 is demanded from such a man as security, the poor fellow will be crushed out of existence. There is no provision here for an appeal to the High Court, and that is final. I therefore suggest that in place of Rs. 5,000 the sum should be fixed at Rs. 2,000. Even Rs. 2,000 will be a considerable sum, and if the man offends again there are other provisions that would apply in his case."

The Hon'ble Sir HERBERT RISLEY : " I regret that I cannot accept this amendment. The clause deals with a case where an offence has been committed, and in that case it is proper that the amount of security demanded should be larger than in the case where no offence has been committed. As for the case mentioned by the Hon'ble Member, I am justified in saying that we may take it that the people who administer this Bill will be reasonable; they will know that if there is the slightest suspicion of vindictiveness not only will they be immediately pulled up but their action will tend to discredit them."

The motion was put and negatived.

The Hon'ble BABU BHUPENDRA NATH BASU moved that in Clause 3, Sub-clause (2), for the words " five hundred " and " five thousand " respectively the words " two hundred " and " one thousand," respectively, be substituted. He said : " This amendment is practically the same as the one I moved just now in respect of Sub-clause (1) of Clause 3."

The Hon'ble Sir HERBERT RISLEY : " The same arguments apply and with even greater force to this, and I cannot therefore accept it."

The motion was put and negatived.

The Hon'ble PANDIT MADAN MOHAN MALAVIYA moved that in Clause 3, Sub-clause (2), after the words " the Local Government may," for the words " by notice in writing require the keeper of such press to deposit with " the word " direct " be substituted; after the word " situated " the words " to require the keeper of such press to show cause why he should not be ordered to deposit " be inserted; and for the words " Local Government " in the third line from the end of the clause, the words " the Magistrate " be substituted. He said: " The object of my amendment is to make the order for the deposit of security a judicial order and not an executive order. I need not say more."

The Hon'ble Sir HERBERT RISLEY: " This strikes at the entire principle of the Bill, and I would ask the Council to reject it."

The motion was put and negatived.

The Hon'ble Mr. GOKHALE moved that in Clause 3, Sub-clause (2), of the Bill, after the word " India " in line 17, the words and figures " or to enter into a bond, if the keeper of the press offers to do so, binding himself not to use his press again for any of the purposes described in Section 4, Sub-section (1)," be added. He said: " I have taken the substance of this amendment from the Act of 1878. As a matter of fact, in this particular, the present Bill is more drastic than the Act of 1878. The Act of 1878 gave the option to an offending party to enter into a bond, and, if he bound himself not to offend again like that, the Government accepted the bond and things went on without further trouble. I think it would be a desirable thing to have this provision again in the case of small concerns that might otherwise be crushed out of existence by the demand of a heavy security. If a man has offended, especially through inadvertence, he would be all the more ready to bind himself. The man who has offended intentionally will offer security and will go to the High Court when the security is forfeited, whereas the man who has erred through inadvertence will apologise, express contrition, and give any undertaking that the Government might ask him to enter into. As the object of the Government is to prevent sedition and not to get money out of these people, I suggest that this amendment should be accepted."

The Hon'ble Mr. SINHA: " On behalf of my friend, Sir Herbert Risley, I am unable to accept the amendment proposed. I would only point out that the Hon'ble Mr. Gokhale is in error in thinking that under the Act of 1878 the option either to deposit the amount or to enter into a bond was in any way given to the keeper of the press or the publisher. Under that Act the Magistrate could require the publisher of the newspaper to give security or enter into a bond, and it was the Magistrate's option and not the publisher's. So that the Hon'ble Member is wrong in thinking that we are trying to be more severe in the Bill as framed than it was under the Act of 1878. I am therefore unable to accept the amendment."

The motion was put and negatived.

The Hon'ble BABU BHUPENDRA NATH BASU moved that in Clause 3, Sub-clause (2), after the words " the keeper of such press " the words " to enter into a bond in a sum not exceeding one thousand rupees binding himself not to allow the press to be used for any of the purposes aforesaid or to deposit with the Magistrate within whose jurisdiction the press is situated security for the amount of such bond " be added, and the portion of the same sub-clause beginning with the words " to deposit " and ending with the words " may think fit to require " be omitted. He said: " My amendment is on the same lines as that of the Hon'ble Mr. Gokhale, only in this case I propose to give the option to the Magistrate either to call for a bond or to call for a deposit, and that is on the same lines as Lord Lytton's Act."

The Hon'ble Mr. GOKHALE: " My Lord, I beg to support this amendment. I know that it will be said that after all it does not mean very much, but if the two things are put together in the Bill it would be a sort of a suggestion to the Local Government that they should offer a choice to the party concerned of the two alternatives."

The Hon'ble Mr. SINHA: " My Lord, we are unable to accept that. There is really no substance in what the Hon'ble Member is asking for. This is after an offence has been committed and it gives the option to Local Governments to call upon the offender to put down security. I do not see where the harm or the injury comes in at all."

The motion was put and negatived.

The Hon'ble Sir VITHALDAS D. THACKERSEY moved that to Clause 3 the following explanation be added :—

"*Explanation.—A declaration made under Section 4 of the Press and Registration of Books Act*, 1867, *by reason of the death or retirement of the keeper of a printing-press, shall not be deemed to be a declaration within the meaning of this section.*"

He said : "I have heard very carefully the remarks of the Hon'ble Member in charge of the Bill and of the Hon'ble the Law Member, and they have clearly given us to understand that the existing presses are not to be touched and that they shall not be required to pay deposits. As it has been so well pointed out, there are many presses, held by men of small means, and unless an explanation, as I propose, is added the object will not be secured, since on the death of a father his son shall have to pay a deposit, and if he is not able to deposit security he shall have to close his business, which had gone on during his father's and perhaps during his grandfather's time for years. As it is not the intention that the present presses should suffer any penalty, I beg that this explanation be added to Clause 3."

The Hon'ble Sir HERBERT RISLEY : "I am unable to accept this amendment. The difficulty is that we cannot really be sure of their *bonâ fides* in the matter. There may be *benami* transactions, *malâ fides* of various kinds, and we are bound to guard against that."

The motion was put and negatived.

The Hon'ble Mr. GOKHALE moved that in Clause 4, Sub-clause (1), the words "or may have a tendency" in the ninth line be omitted. He said : "My Lord, this amendment refers to the definition of what is objectionable matter. The definition runs as follows :—'Whenever it appears to the Local Government that any printing-press in respect of which any security has been deposited as required by Section 3 is used for the purpose of printing or publishing any newspaper, book, or other document containing any words, signs, or visible representations which are likely or may have a tendency, directly or indirectly, whether by inference, suggestion, allusion, metaphor, implication or otherwise,' to do any of the things that are mentioned below, *viz.*, 'to incite to murder, etc.,' 'to seduce any officer, soldier, or sailor in the Army or Navy of His Majesty from his allegiance or his duty,' 'to bring into hatred or contempt His Majesty or the Government by law established in British India,' and so forth, the Local Government may, etc., etc. Now, my Lord, this is fearfully comprehensive. I will take only one of the things mentioned, the feeling of contempt. Now what is provided here is that the writing should not be *likely* to promote a feeling of contempt towards the Government, 'directly or indirectly, whether by inference, suggestion, allusion, metaphor, implication, or otherwise.' Surely this is comprehensive enough and should suffice. The Bill, however, goes further, and lays down that the writing in question should not even have a tendency, directly or indirectly, etc., to produce such a result. I fear this might be made to include almost any adverse criticism. For instance, let us take the case of the Excise Department of the Government. Suppose in criticising it I say that drunkenness is on the increase owing to liquor shops being located near temples and other convenient places. This may be interpreted as having a tendency to suggest that the Government is driving the people to drunkenness and is therefore bringing the Government into contempt in the eyes of people who abstain from liquor. Or take another instance. Suppose I say that last year, when the Indian Councils Act was under consideration, Lord Morley promised that, as soon as might be after the passing of the Act, Indian Members would be appointed to the Executive Councils of the Governors of Madras and Bombay, and yet nothing has yet been done. I may be told that my statement has a tendency to bring the Government into contempt, as it may be taken to attribute a breach of faith to the Secretary of State for India. I think the object that the framers of this Bill have in view will be amply met by retaining the other words 'likely, directly or indirectly, whether by inference, suggestion, allusion, metaphor, implication, or otherwise,' and omitting the words 'or may have a tendency.' I therefore propose that the words 'or may have a tendency' be left out."

The Hon'ble Sir HERBERT RISLEY : "I regret that I am unable to accept this amendment. The latter part of Clause 4 (1) has been most carefully considered by us, and we framed it in the form which it has with the express object of covering the frequent cases—the too frequent cases—of what has been described in the debate as veiled sedition. That is the reason why we put in the words 'or may

have a tendency.' And I submit, Sir, that there is no difficulty whatever in ascertaining what is the tendency of a paper. The Local Government can be under no temptation at all to strain the provisions of the section. They will look at things generally, and, knowing that the eyes of all the world will be on them, they will be the less liable to exhibit any excess in the direction of working this section. As for the cases which the Hon'ble Member cited, it seems to me that these are clearly covered by the exception to the clause."

The Hon'ble BABU BHUPENDRA NATH BASU said: "I support my friend Mr. Gokhale. In reply to what has fallen from the Hon'ble Sir Herbert Risley, I would remind him probably it is within his knowledge that during the period when Sir George Campbell was the Lieutenant-Governor of Bengal, the late Babu Kristo Dass Pal was the editor of a paper known as the *Hindu Patriot*. No more loyal citizen of India existed at this time than Babu Kristo Dass Pal, and his paper was considered one of the most loyal papers then in existence. And yet, in a Resolution in the local Gazette, Sir George Campbell described the paper as seditious; and I know he was taken to task for it by Lord Northbrook. So that it is quite possible that Local Governments may make mistakes, as the Government of Bengal did in the case I have just cited, and which may be in the memory of my friend Sir Herbert Risley."

The motion was put and negatived.

The Hon'ble PANDIT MADAN MOHAN MALAVIYA moved that in Clause 4, Sub-clause (1) (*d*), the words "or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do" be omitted.

The Hon'ble Sir HERBERT RISLEY: "I am unable to accept the amendment."

The motion was put and negatived.

The Hon'ble PANDIT MADAN MOHAN MALAVIYA moved that at the end of Clause 4, Sub-clause (1), last paragraph, for the words "the Local Government" the words "the Magistrate" be substituted; for the word "declare" the words "require him to show cause why" be substituted; and for the word "to" in the last line the words "should not" be substituted. He said: "My reason is the same as that given by me in moving a previous amendment, *i.e.*, I want a judicial decision instead of an executive order."

The Hon'ble Sir HERBERT RISLEY: "I am unable to accept the amendment."

The motion was put and negatived.

The Hon'ble BABU BHUPENDRA NATH BASU moved that in clause 4, sub-clause (1) (*d*), after the words "in fear" the words "of injury to his person, reputation or property" and in (*f*) after the word "injury" the words "to his person, reputation or property" be added. He said: "These are the words which I have borrowed from the Indian Penal Code, and the addition, if accepted, would define or at least limit the objects to which the person's fears may be excited. I think it would be a useful limitation in this definition."

The Hon'ble SIR HERBERT RISLEY: "I am unable to accept the amendment, and for this reason: It seems to me that the addition of these words, which the Hon'ble Member proposes to add, will be to exclude pressure brought to bear upon the members of the family of the person, that is to say, that these words will exclude from the purview of the Act the most subtle and the most dangerous form of intimidation that has been resorted to in recent years."

The Hon'ble BABU BHUPENDRA NATH BASU: "In that case, my Lord, I do not press it."

The motion was withdrawn.

The Hon'ble BABU BHUPENDRA NATH BASU moved that in clause 4, sub-clause (2), after the word and figure "sub-section (1)" the words "and not complied with" be added, and at the end of the same sub-clause the words "after the expiration of ten days from the issue of such notice; provided no such amendment shall take effect if in the meantime an application to set the same aside has been made to the High Court as hereinafter provided until the matter has been disposed of by such High Court" be added. He said: "This declares, as in the Bill, 'where a notice has been issued under sub-section (1), the declaration made in respect of such press shall be annulled.' That stops the press at once unless, as my friend the Hon'ble Mr. Sinha suggested, the party is able to put in the additional security which would be the added security and which would be a much heavier amount and thus carry on the press. For the purpose of avoiding that inconvenience I add this, 'that after the expiration of ten days from the issue of such notice; provided no such annulment shall take effect if in the meantime an application to set the

same aside has been made to the High Court as hereinafter provided until the matter has been disposed by such High Court.' In this instance, as soon as the appeal is made, the press stops at once, but I provide that let a notice issue, the notice of annulment, and let the offending party have ten days' time within which to move the High Court, and if he succeeds in moving the High Court then the press will not be stopped. Of course I am aware that in the meantime much injurious matter may issue from the press, and this would be an argument against me. But, my Lord, if human actions are to be judged by ordinary standards, it is practically out of our purview altogether that after a man has been under notice of annulment and after his appeal to the High Court he will go on again writing sedition against the Government or any class of His Majesty's subjects, and that it being a very short time which I have provided, I think the amendment may be accepted by your Lordship."

The Hon'ble MR. S. P. SINHA: "On behalf of Sir Herbert Risley I would accept the amendment in a somewhat modified form. The section runs as follows: 'Where a notice has been issued under sub-section (1), the declaration made in respect of such press shall be deemed to be annulled.' That is, as soon as the notice is issued, the declaration is deemed to be annulled with this notice. I am willing to accept the amendment in this way: 'After the expiry of ten days from the date of the issue of a notice under sub-section (1), the declaration made in respect of such press shall be deemed to be annulled.' But not in regard to the High Court, that if there is an appeal to the High Court the paper is to go on till the decision of the High Court, which will ordinarily take some time. We will accept the ten days."

The Hon'ble BABU BHUPENDRA NATH BASU: "I modify my amendment accordingly. However, we are grateful for small mercies. I may appeal to my Hon'ble friend, the Hon'ble Mr. Sinha. If you only give me ten days and they do not postpone the annulment until after the decision of the High Court, it practically confers no benefit upon the offending journal. And you treat the offender in the case of a book less severely, supposing I publish a seditious book that goes on circulating. Whereas in the case of a printing-press you stop it altogether. Of course I am entirely in your hands."

The Hon'ble MR. S. P. SINHA: "I do not think my friend has quite apprehended the position. This section refers to the printing-press, the keeper of which is not to go on printing in his press from the moment that he has been required to deposit a further security: that was the section originally drafted. We thought that it would give rise to some difficulty because the intention of the Bill is that after the order has been made for the forfeiture of the security he should be entitled to deposit further security and then go on, and that some little time ought to be given between the date of the order and the date of the deposit of the further security: he may not be able to do it immediately or the next day. It is for that purpose we agreed to give ten days, so that, notwithstanding the order of forfeiture is made, he will still have these ten days during which time he can use his printing-press, and if on the tenth day he deposits his security he can go on all along. In the meantime he can go to the High Court."

The Hon'ble BABU BHUPENDRA NATH BASU: "I accept that."

The Hon'ble MR. GOKHALE: "Since my amendment which follows is the same in substance, I would like to say a few words upon this amendment. Since Government are prepared to accept the suggestion that the notice of annulment should not be effective for ten days, I do not see why they should not go a little further. Otherwise what is the meaning of the appeal you allow to the High Court? You may, if you like, shorten the period of appeal from two months to, say, fifteen days. If after the notice of annulment the keeper of a press appeals to the High Court, say, within fifteen days to have the order set aside and the High Court expedites the hearing of the case, the whole thing may be decided in a comparatively short time. You propose to compel the man to stop his work even if he has appealed to the High Court that your order may be set aside. This may cause great hardship because he may have entered into contracts to deliver printed matter on a certain day, and unless he offers fresh security, which may be up to ten thousand rupees, you will not allow him to go on. If the appeal is a remedy, I do not see why you should object to extending the period a little further."

The Hon'ble MR. S. P. SINHA: "I think my Hon'ble friend makes the suggestion in his happy ignorance of the High Court. It is not possible for the Bill to direct the High Court to expedite the appeal; we could not do it. And although the

appeal may be filed within the fifteen days, the time within which the appeal is to be heard will depend upon the state of business in the High Court, and unfortunately it is likely to be delayed for some considerable time. We cannot allow the order to be suspended during the very considerable period that is almost certain to elapse between the date of the order and the hearing of the application to set aside this order. Whereas with regard to the ten days, we make that concession in order that his business may not be stopped, and he goes on. If the High Court sets aside this order, he gets back the further security or the original security."

The Hon'ble MR. MUDHOLKAR: "My amendment is also on the same subject and with the same object. As my friend Mr. Gokhale has pointed out, it is not only the case of newspapers we are dealing with, but we are dealing with the case of printing-presses. There are numerous printing-presses who do nothing except job work, such as printing books and doing other things. Let us take the case of a press which is issuing a large number of books daily; there is printed a book which contained some objectionable passages, and for that the man is called upon to pay enhanced security and the security is ten thousand rupees. Now ten thousand rupees would mean an utter loss of business to the majority of printers of the Indian community. Certainly they will be simply unable to carry on the work. They will have to close their business and it will mean in many cases utter ruin for life. They would be entirely unable to carry out their contracts, their work will be stopped, and the whole thing will come to a crash. I had suggested yesterday to the Hon'ble Sir Herbert Risley and the Hon'ble Sir Harold Stuart the amendment which stands in my name, and which is intended to meet the case of those men who through inadvertence have committed some offence, and I propose that if the man gives an undertaking that he would not do any of the things laid down in section 4 (1) and executes also a bond, and further agrees that if during the pendency of the appeal he commits the same offence, then *ipso facto* the heavier penalty imposed under section 6 comes into effect, the man automatically becomes amenable to the enhanced punishment. As the object we have to prevent is the repetition of the offence during the pendency of the appeal to the High Court, that will be sufficient. My Lord, what we are anxious for is to secure some immunity to persons who have really no intention of carrying on the trade in illicit literature, but who through oversight have come into difficulty. I would request the Member in charge of the Bill to consider all these amendments together and see whether it is not possible by combining them together to meet the real difficulty of the situation which I have submitted to him."

The Hon'ble SIR HERBERT RISLEY: "I am afraid I am unable to accept this except to the extent we have just indicated. Otherwise we have no security against a man of straw."

His Excellency THE PRESIDENT: "I understand the Hon'ble Babu Bhupendra Nath Basu to accept this."

The Hon'ble BABU BHUPENDRA NATH BASU: "Yes, I accept it."

The motion that in clause 4, sub-clause (2), for the words and figure "Where a notice has been issued under sub-section (1)," the words and figure "After the expiry of ten days from the date of the issue of a notice under sub-section (1)" shall be substituted, was then put and agreed to.

The Hon'ble BABU BHUPENDRA NATH BASU moved that in clause 5, for the words "one thousand" and "ten thousand," respectively, the words "five hundred" and "two thousand five hundred" respectively, be substituted. He said: "My Lord, after the lapse of the first security the amount of deposit required is that it shall not be less than one thousand or more than ten thousand. It would be impossible for the most, the largest number of proprietors of printing-presses in India, amongst us Indians, to find security for ten thousand, to deposit ten thousand, with the apprehension always present in the mind that the whole of the ten thousand may be gone. My Lord, as I have said that the definition of offences is very wide, and as my friend the Hon'ble Mr. Gokhale has pointed out that any expression which might be construed as showing ill-will towards Government or bringing it into contempt, it may be taken as sufficient to forfeit the security. Having regard to the fact that the ten thousand rupees cannot be found in these circumstances, and that this will practically mean the closing of the press, I would respectfully appeal to the Hon'ble the mover of the Bill to reduce the amount of the security."

The Hon'ble SIR HERBERT RISLEY: "I am afraid I cannot agree to this proposed reduction. The margin left here is very large and we are justified in assuming

that in administering the Act regard will be had to the character of the press with which the Magistrate has to deal."

The motion was put and negatived.

The Hon'ble PANDIT MADAN MOHAN MALAVIYA moved that in Clause 8, Sub-clause (1), after the word " newspaper " in line 1, the words " started after the commencement of this Act " be added.

The Hon'ble Sir HERBERT RISLEY: " I have declined to accept a similar amendment."

The motion was put and negatived.

The Hon'ble Mr. GOKHALE moved that in Clause 8, Sub-clause (1), before the word " shall " in line 6, the words " and who is not the keeper of the printing-press at which the newspaper is printed " be inserted. He said: " My Lord, the object of my amendment is to provide for the case of a well-intentioned person who wants to start a small *bonâ fide* press and also a small newspaper. Under the Bill, this individual, being the keeper of the press and also the publisher of the newspaper, will be required to deposit two securities, one for the press up to a maximum of Rs. 2,000, and the other for the newspaper also up to Rs. 2,000. Virtually it means that because this man wants to publish a small newspaper and have a press of his own, he will be called upon to deposit Rs. 4,000. I think in such a case the Government may well be satisfied with one security."

The Hon'ble Sir HERBERT RISLEY: " I am prepared to accept my Hon'ble friend's amendment in a modified form, namely, ' Provided that if the person registered under the same Act as printer of the newspaper is also registered as the keeper of the press where the newspaper is printed, the publisher shall not be required to deposit security so long as he is so registered.' "

The motion that in Clause 8, Sub-clause (1), of the Bill, after the words " Government of India " the following proviso shall be added: " Provided that if the person registered under the said Act as printer of the newspaper is also registered as the keeper of the press where the newspaper is printed, the publisher shall not be required to deposit security so long as such registration is in force "; and in the existing proviso, for the words " Provided that " the words " Provided further that " shall be substituted, was then put and agreed to.

The Hon'ble BABU BHUPENDRA NATH BASU moved that in Clause 9, Sub-clause (2), after the word and figure " Sub-section (1) " the words " and not complied with " be added, and at the end of Sub-clause (2) the words " after the expiration of ten days from the issue of such notice; provided no such annulment shall take effect if in the meantime an application to set the same aside has been made to the High Court as hereafter provided, and the matter has been disposed of by such High Court " be added. He said: " This is the same clause which in a modified form has been already accepted; if the same concession is granted, we will accept it."

The motion that in Sub-clause (2) of Clause 8, for the words and figure " Where a notice has been issued under Sub-section (1)," the words and figure " After the expiry of ten days from the date of the issue of a notice under Sub-section (1) " shall be substituted, was then put and agreed to.

The Hon'ble PANDIT MADAN MOHAN MALAVIYA moved that in Clause 8, Sub-clause (2), all the words after " the Local Government may " be omitted, and the following substituted therefor, namely: " cause a notice in the form in the schedule hereto annexed or to the like effect to be served on the printer or the publisher of such paper," and add to the Act the following Schedule:—

" SCHEDULE.

" *Form of notice under Section* 8 (2).

" Whereas a certain newspaper (*state name of newspaper*) contains words, signs, or visible representations (*as the case may be*) of the nature described in Section 4, Sub-section (1), of the Indian Press Act, 1910, this is to give notice to all whom it may concern, and to give all such persons a warning, according to the provisions of Section 8, Sub-section (2), of the said Act."

and then the following new clause be added:—

" 8.—(3) If, after such a notice has been served on the printer or publisher, the newspaper in respect of which it has been issued contains any words, signs, or visible representations of the nature described in Section 4

Sub-section (1), the Local Government may, by notice in writing, require the publisher to deposit with the Magistrate, within whose jurisdiction the newspaper is published, security to such an amount, not being less than five hundred or more than five thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the Government of India."

He said : " I have taken this from the Vernacular Press Act of 1878. I think this at least may be accepted."

The Hon'ble Sir HERBERT RISLEY : " I am unable to accept the amendment. In practice no doubt the notice will usually be given, but it is not desirable or necessary that this formal obligation should be inserted in the Act."

The motion was put and negatived.

The Hon'ble Sir VITHALDAS D. THACKERSEY moved that after Clause 16 the following clauses be added, namely :—

" 16A. The Local Government, before passing an order requiring a keeper of a press or a publisher to deposit security under Section 3, or Section 8, or before passing an order of forfeiture of any security deposit under Section 4, 6, 9, or 11, and of the printing-press under Section 6, shall give an opportunity to the keeper of the press, or the publisher of a newspaper, to submit any explanation that he may wish to give."

" 16B. The Local Government may upon good cause shown cancel any forfeiture made under this Act."

He said : " The object, my Lord, of this amendment is that before any action is taken or an order of forfeiture is passed, the accused party may have an opportunity of being heard. It is just possible that he may have a very reasonable and satisfactory explanation to give, and all the unpleasantness may be avoided. At the same time I do not wish to curtail the power of the Local Government to confiscate objectionable publications when they think necessary. I have therefore allowed that portion to remain."

The Hon'ble Sir HERBERT RISLEY : " I am unable to accept this amendment. There is no doubt whatever that reasons of high policy demand that Local Governments should administer this Act with the utmost tenderness. There obviously may be cases in which it would be futile to call for an explanation. As for the second part, there is no object in empowering a Local Government in this Bill to do that which it can always do by virtue of its own executive authority."

The Hon'ble Sir VITHALDAS D. THACKERSEY : " I have taken that portion from the Act of 1878."

The Hon'ble Mr. GOKHALE : " I beg to support this amendment. I really do not see why Government should not accept it. If the Government think that the man has offended, they can ask him to give an explanation. I do not see what there is in this that in any way detracts from the object which the Government have in view. It is an unnecessary hardship that a man should get up one morning and find there is an order of forfeiture, coming upon him as a bolt from the blue. I therefore support the amendment."

The Hon'ble Sir HERBERT RISLEY : " I can only say that there may be many cases in which it is necessary to secure promptness. There is not the slightest prospect of the law being harshly administered, and it is not desirable that Local Governments should be tied down by the law to require an explanation in every case."

The motion was put and negatived.

The Hon'ble PANDIT MADAN MOHAN MALAVIYA moved that in Clause 17 for the words " of forfeiture " the words " requiring security to be given or declaring a security or other property to be forfeited " be substituted. He said : " There ought to be opportunity given to a man who is called upon to deposit security to have the matter considered by the High Court, so that if a mistake has been committed he may have an opportunity of getting it rectified.

The Hon'ble Sir HERBERT RISLEY : " I am unable to accept this amendment; it has already been decided."

The motion was put and negatived.

The Hon'ble BABU BHUPENDRA NATH BASU moved that in clause 19 the words " and may award costs and damages " be added. He said : " My Lord, in clause 19,

where the High Court may, on revision of the facts, set aside an order of forfeiture, I wish to add the words 'and may award costs and damages.' The party finds that heavy punishment is inflicted upon him. You make him forfeit his deposit and you make him incur heavy cost in moving the High Court. If the High Court is satisfied that the order is wrong or was not based on proper or sufficient material, why should not the High Court also be empowered to award costs or damages? Clause 22 provides that the party affected will have no other remedy. If he has no other remedy, and if he has been unjustly punished, why should we object to the High Court being also empowered, in cases where it finds that an order of forfeiture was wrongly made, to award costs and damages? That would be a very wholesome check upon the attitude of the Executive."

The Hon'ble Sir HERBERT RISLEY: "I am afraid I am unable to accept this amendment. My Hon'ble friend has put it as if this is a question of civil procedure; but these are questions of criminal procedure; it is not consistent with the form of criminal proceedings that the element of damages should be introduced."

The motion was put and negatived.

The Hon'ble Mr. GOKHALE moved that at the end of the Bill a new clause be added, namely:—

> "27. This Act shall remain in force for three years only from the date on which it receives the assent of the Governor-General."

He said: "My Lord, I urge this amendment most strongly on the acceptance of the Government. I think that the Government will lose absolutely nothing by accepting it, whereas they will gain a great deal by accepting it. There is no doubt whatever that if after the expiry of three years the general situation in the country requires that similar legislation should again be in force, there would not be the smallest difficulty in the way of the Government passing another Bill like this through this Council as it is constituted. Look at the fate of the only amendment on which the Council has so far divided to-day. It was not only defeated but positively slaughtered. Therefore there would be no difficulty whatever in getting any required legislation through this Council. But, my Lord, the advantage of accepting this amendment would be this. It would at once show to the public the exceptional character of this legislation. It would be an invitation to large sections of the public to co-operate with the Government in terminating a state of things which has rendered that legislation necessary. I think large sections of the people who would otherwise feel it a grievance that this Bill has been passed would not feel the same objection to the Bill if this amendment is accepted. I therefore urge strongly that this legislation should remain in force for three years only."

The Hon'ble Mr. MUDHOLKAR said: "My Lord, I also beg to support the amendment because the amendment which stands in my name is practically to the same purpose. Both these amendments, I may say, have been proposed after consulting a number of non-official members. My Lord, there is a very strong feeling among persons of responsible disposition to support Government in the exceptionally difficult situation in which they and the country are placed. I would only make this request, that as these are exceptional times when exceptional measures are required, the operation of these should be confined only to the continuance of those exceptional conditions. My Lord, as I pointed out in my speech made some time ago, there is an important principle which belongs as much to British jurisprudence as to Indian jurisprudence which has to be laid aside for purposes of the safety of the Empire, viz., the exclusion of the jurisdiction of the Civil Courts and of the Criminal Courts and the clothing the Executive with the powers of the Judiciary. My Lord, we admit the necessity of taking this extraordinary power on account of the exceptional circumstances; but I would beg the Council to consider the great importance of the principle which is involved in the separation of the Judicial from the Executive functions in ordinary. There is no principle which has been more unreservedly admitted and considered more sacred and which is regarded as more in accord with the British constitution than the principle of the supremacy of law, and I would beg the Council to see this, that the clothing the Executive with extraordinary powers should be confined to the narrowest possible limits and should not go beyond the exigencies of the situation. When these exigencies cease it would be a fit occasion for the expiry of the Act. It would be not a little difficult to obtain a repeal of the Act. I say as in the case

of the Irish Act, this present Act should expire of itself at the end of three years unless its continuance then is considered necessary by the Governor General in Council. I would therefore most earnestly request Government to consider the propriety of the amendment, which is suggested in the most friendly spirit and with a view of loyally co-operating with the Government in the great and difficult task which they have before them."

The Hon'ble Sir VITHALDAS D. THACKERSEY said: "My Lord, I support the amendment. It must have been plain to Government that in spite of the diverse opinions held by several members, considering the present situation, the Council as a whole has supported this measure in order to meet the situation; and I think when the situation improves, the measure must be reconsidered in the light of the situation at that time."

The Hon'ble Mr. DADABHOY said: "My Lord, I venture to add a word in support of this amendment. I support it from a different standpoint. There is a thing like penitence even with the most violent section of the Press, and we should give the seditious Press an opportunity of reclaiming themselves and regretting the past. If a hope is held out that this Act is to apply for a limited period only and it will be repealed when the situation improves, it will have a very salutary effect. I therefore appeal to every member of this Council to support the amendment. If after three years the present state of affairs continue, there will be no difficulty in the Legislature further extending that period; on the other hand, the adoption of such a course will raise hopes in the Press generally, and the conductors of newspapers will have the satisfaction of feeling that the Government have given them an opportunity of correcting their past errors and that if matters improve in the next few years through sobriety and restraint in their language, they will be restored to their former position. For these reasons I pray—I earnestly request—every member of this Council to leave aside all considerations and support this amendment. The object of the present legislation will be gained and there will be absolutely nothing to lead to the conclusion that any principle has been abandoned."

The Hon'ble BABU BHUPENDRA NATH BASU said: "My Lord, the Hon'ble Member in introducing the Bill said it was suited to the circumstances. If that is accepted it will mean that Government only meant to introduce the Bill for the purpose of dealing with exceptional circumstances; that there is no desire to act in such a way as to restrict permanently the legitimate aspirations of the Press. Therefore, my Lord, I hope that this amendment will be accepted."

The Hon'ble MAULVI SYED SHAMSUL HUDA: "I have much pleasure in supporting this amendment. I feel that an Act of this nature should not be allowed to remain on the Statute-book one moment longer than is necessary. I am convinced, by Lord, that the cloud which obscures the sky will soon vanish. If a time limit is imposed on this Act, it will be an incentive to the people, to the proprietors of newspapers and keepers of presses, so to conduct themselves as to make the renewal of such a measure unnecessary. I, therefore, my Lord, support this amendment."

The Hon'ble Sir HERBERT RISLEY: "My Lord, I am afraid I can hold out no hopes that I am going to accept this amendment. It will involve a very serious danger and impair the effectiveness of the Bill. In England the license of the Press is controlled, and we see it controlled every day, by public opinion. Now here in this country there is very little public opinion and its place must be supplied by the law. This law, when it is passed, will be, as I have said before, a great public educator; and I think we should not hold out any hope that that wholesome influence of education will stop at the end of a hard and fast period. When, Sir, we get a Press temperate in tone and honest in intention, then it will be possible to repeal that law; but we cannot predict with any degree of certainty that that end will be attained after two or three or even after five years. The Hon'ble Mr. Gokhale told us at an earlier stage of the debate that the air was thick with antagonism. How soon will it clear? Can we be certain that it will be cleared within a certain number of years? If it is not, and if the Bill is limited to that period, then when the period expires it will be necessary to re-enact it. Out of that will come an undesirable excitement and general feeling. On the other hand, if the people concerned have themselves applied the remedy that we desire, nothing

will be easier than to repeal the Act, and I submit, Sir, that to meet the people by repealing the Act will be a far more impressive way of doing that than this motion proposes to do."

The Hon'ble Mr. GOKHALE: "My Lord, I can only say that I am greatly disappointed at the answer of the Hon'ble Sir Herbert Risley. However, I should not have ventured to take up any more time of this Council but for a reference which the Hon'ble Member made to a remark of mine in this morning's speech. I did no doubt say that the air was thick with feelings which were antagonistic to the continuance of British rule. But one way of clearing the air of those feelings, one way of counteracting the mischief that exists, is to show some confidence in the people, and this would be done by limiting the operation of the Bill to three years. I do not wish to add anything more. It is a matter of regret that an appeal from so many quarters has met with no response."

The Council divided:—

Ayes—16.

The Hon'ble Pandit Madan Mohan Malaviya.
The Hon'ble Mr. Abdul Majid.
The Hon'ble Raja Partab Bahadur Singh of Partabgarh.
The Hon'ble Mr. Sachchidananda Sinha.
The Hon'ble Babu Bhupendra Nath Basu.
The Hon'ble Mr. M. Mazharul Haque.
The Hon'ble Nawab Saiyid Muhammad Sahib Bahadur.
The Hon'ble Mr. G. K. Gokhale.
The Hon'ble Rao Bahadur R. N. Mudholkar.
The Hon'ble Mr. M. B. Dadabhoy.
The Hon'ble Mr. G. M. Chitnavis.
The Hon'ble Maulvi Abdul Karim Abu Ahmed Ghaznavi.
The Hon'ble Raja Pramada Nath Ray of Dighapatia.
The Hon'ble Maulvi Syed Shamsul Huda.
The Hon'ble Mr. Mahomed Ali Jinnah.
The Hon'ble Sir Vithaldas Damodar Thackersey.

Noes—42.

His Honour the Lieutenant-Governor.
The Hon'ble Mr. J. O. Miller.
The Hon'ble Sir G. Fleetwood Wilson.
The Hon'ble Mr. S. P. Sinha.
The Hon'ble Sir Herbert H. Risley.
The Hon'ble Major-General R. I. Scallon.
The Hon'ble Mr. R. W. Carlyle.
The Hon'ble Mr. L. M. Jacob.
The Hon'ble Mr. W. Maxwell.
The Hon'ble Mr. J. S. Meston.
The Hon'ble Mr. J. B. Brunyate.
The Hon'ble Sir H. A. Stuart.
The Hon'ble Mr. S. H. Butler.
The Hon'ble Malik Umar Hyat Khan.
The Hon'ble Zulfikar Ali Khan.
The Hon'ble Sardar Partab Singh.
The Hon'ble Mr. M. W. Fenton.
The Hon'ble Mr. F. A. Slacke.
The Hon'ble Maharajadhiraja Bahadur of Burdwan.
The Hon'ble Mr. J. M. Holms.
The Hon'ble Mr. C. H. Kesteven.
The Hon'ble Mr. C. G. Todhunter.
The Hon'ble Surgeon-General C. P. Lukis.
The Hon'ble Mr. H. W. Orange.
The Hon'ble Mr. J. M. Macpherson.
The Hon'ble Mr. J. Andrew.
The Hon'ble Raja Vairicherla Vaira bhadra Razu Bahadur of Kurupam.
The Hon'ble Mr. H. O. Quin.
The Hon'ble Mr. F. Rawson.
The Hon'ble Kanwar Sir Ranbir Singh.
The Hon'ble Mr. W. C. Madge.
The Hon'ble Mr. C. W. N. Graham.
The Hon'ble Mr. F. A. T. Phillips.
The Hon'ble Mr. F. C. Gates.
The Hon'ble Maung Bah Too.
The Hon'ble Mr. P. C. Lyon.
The Hon'ble Mr. C. Stewart-Wilson.
The Hon'ble Mr. F. E. Dempster.
The Hon'ble Lieutenant-General Sir Douglas Haig.
The Hon'ble Sir T. R. Wynne.
The Hon'ble Mr. G. H. B. Kenrick.
The Hon'ble Colonel F. B. Longe.

So the motion was negatived.

The Hon'ble Mr. MUDHOLKAR moved that at the end of the Bill the following new clause be added, namely:—

"27. This Act will come into operation at once, and will remain in operation for a period of three years, that is, up to the 7th of February, 1913. But the Governor General in Council may by notification extend its operation for a further period of two years, that is, up to the 7th of February, 1915."

He said: "My Lord, my amendment is one which goes a little further than Mr. Gokhale's amendment. My Lord, after the fate which the last amendment received, it would be leading a forlorn hope to press this again. But as in this amendment there is a further period to which, by a notification, the Governor General can extend the operation of this measure, I would again ask whether it would not be possible to do something to meet a request coming from so many persons belonging to the Council."

The Hon'ble BABU BHUPENDRA NATH BASU: "My Lord, again there is an amendment which stands in my name: 'and shall be in force for three years, or for such further period as the Governor General in Council may determine." I suppose that leaves it to the Government at any time it chooses, without passing any Act, to determine the operation of the Act. I do hope that may be accepted."

The Hon'ble Sir HERBERT RISLEY: "I am unable to accept either of these amendments for the reasons which I gave just now."

The motions were put and negatived.

The Hon'ble Sir HERBERT RISLEY moved that the Bill, as now amended, be passed.

The motion was put and agreed to.

His Excellency the PRESIDENT said: "Gentlemen, this is the first great measure which has been dealt with by the new Imperial Council, and I congratulate Hon'ble Members on the thoughtful tone of the speeches to which we have listened; and though some exception has been taken to the nature of the powers conferred upon Local Governments, I would ask Hon'ble Members to bear in mind that in framing the Bill the Government of India has had to consider, and to meet as far as possible, very considerable diversities of public opinion. We believe that the Act as now passed avoids unnecessary and irritating interference, and at the same time affords ample machinery for dealing with the evil it is intended to meet. The causes which have rendered legislation necessary were so fully and ably explained to you by Sir Herbert Risley on Friday last and were so eloquently laid before you by the Hon'ble Mr. Sinha to-day that I need not attempt to repeat them to you. I would rather draw your attention to the political importance and significance of to-day's discussion. The members of this greatly enlarged Council, thoroughly representative of Indian interests, have passed what may be justly called a repressive measure, because they believe with the Government of India that that measure is essential to the welfare of this country. In so doing they have furnished the proof which I have always hoped and believed that they would furnish—that increased representation of Indian interests and communities would not weaken, but would vastly strengthen, British administration. That being so, I hope I am right in assuming that we are at the commencement of that new political era of which I have so often spoken, and that the presence on this Council of the leading public men of India may afford the Viceroy's Government the loyal advice of which it has so often stood in need.

"In accordance with this view the Government of India has decided to obliterate, as far as they have it in their power to obliterate, the sore feeling caused by the action which has been forced upon them by past emergencies. We have determined to release the State prisoners who were deported, under Regulation III. of 1818, fourteen months ago. Our justification for their release is based upon the belief that the political position has entirely changed, that the political movement of which they were the leaders—seditious as it was—has degenerated into an anarchical plot, which can no longer be legitimately included as part of the political agitation in which they were so culpably implicated. We believe that we are no longer confronted by a political movement such as they inaugurated, but are face to face with an anarchical conspiracy waging war against British and Indian communities alike, and that it will be long before we

can exterminate the evil unless those communities agree to work together hand in hand. We believe that their mutual efforts will be greatly encouraged by the release of the deportees as showing that Government is willing to trust the influential classes of the people and to rely upon their co-operation and loyalty.

" But though we have come to this decision, we cannot for an instant disregard the probability of further attempts at outrages, and that probability we are determined to combat with all the weapons at our disposal.

" In the meantime we trust that the Act which this Council has passed to-day will efficiently control the source from which so much evil has emanated."

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